

Return to:  
Edward M. Sporich  
Traci L. Todd  
3736 Highway 287  
Sheridan, MT 59749

162679 RECORDS      Pages: 10  
STATE OF MONTANA MADISON COUNTY  
RECORDED: 08/10/2015 4:30 KOI: AGREEMENT  
Peggy Kaatz Stemler CLERK AND RECORDER  
FEE: \$70.00      BY: *Paula McNamee, Deputy*  
TO: SPORICH/TODD 3736 HWY 287, SHERIDAN MT 59749

cc  
✓

### MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made between Edward M. Sporich and Traci L. Todd, of 3736 Highway 287, Sheridan, MT 59749 (hereinafter "Sporich-Todd") and Wade K. Fisher, of 118 Novich Lane, Twin Bridges, MT 59754 (hereinafter "Fisher").

#### Recitals

WHEREAS, Sporich-Todd are owners of certain real property described as:

A tract of land located in the NE1/4 of Section 23, Township 4 South Range 7 West, PMM, Madison County, Montana, more particularly show and described as Tract B3 on Certificate of Survey filed in Book 7 of Surveys, page 2225-FC, records of Madison County, Montana (hereinafter referred to as Sporich-Todd Property), and

WHEREAS, Fisher is owner of certain real property described as:

A tract of land located in the NE1/4 of Section 23, Township 4 South Range 7 West, PMM, Madison County, Montana, more particularly show and described as Tract B4 on Certificate of Survey filed in Book 7 of Surveys, page 2225-FC, records of Madison County, Montana (hereinafter referred to as Fisher Property), and

WHEREAS, Sporich-Todd own and operate a pivot irrigation system and appurtenant pumps, motors, electrical panels and diversion sumps on their property which system also physically crosses over portions of the Fisher property. Sporich-Todd have an Easement for the purpose of allowing the last three towers of their pivot irrigation system to cross over the Fisher property. This arrangement is for the mutual benefit of the Sporich-Todd and Fisher properties and shall continue as set forth in this Agreement.

NOW THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

1. Incorporation of Exhibits: The Certificate of Survey describing the referenced parcels is attached hereto as Exhibit "A". The warranty deed reserving the easement across the Fisher Property is attached hereto as Exhibit "B". The personal property used in the irrigation system is described in Exhibit "C", attached hereto. These exhibits are expressly incorporated and made a part of this Agreement.
2. Appurtenant Water Right: Water Right Claim Number 41D 37041 00, as represented by shares in Paigeville Canal, is appurtenant to both parcels. The water right and shares are to be shared through the pivot irrigation system in the prorata share of sixty-eight percent (68%) appurtenant to the Sporich-Todd Property and thirty-two percent (32%) appurtenant to the Fisher Property.
3. Allocation of Costs: All assessments from Paigeville Canal Company, all electrical costs and costs for repairs, maintenance and upkeep of the pivot irrigation system and appurtenant pumps, motors, electrical panels and diversion sumps, and all maintenance of ditches shall be allocated in the prorata percentages stated in Paragraph 2.
4. Term: This Agreement shall continue as long as the above pivot system is operable or until terminated by mutual agreement of the owners of both parcels. In the event the pivot is replaced with a like system, the parties shall have the option of renewing the Agreement on like terms.
5. Binding Effect: This Agreement shall run with the land and be binding on the successors, heirs and assigns of each party.
6. Entire Agreement: This instrument constitutes the entire agreement between the parties. No party shall be bound by any terms, conditions, understandings, warranties, statements or representations, oral or written, not contained in this Agreement. Each party hereby acknowledges that the execution of this Agreement was not induced or motivated by any promise or representation made by any other party, other than the promises and representations expressly set forth in this Agreement. All previous negotiations, statements and preliminary instruments by the parties or their representatives are merged into this Agreement, except as expressly provided for in this Agreement.
7. Modifications: No modification of this Agreement will be valid or binding unless the modification is in writing and signed by all parties to the Agreement.
8. Attorneys' Fees: If either party to this Agreement shall institute legal proceedings to enforce the terms of this Agreement, the parties agree that the unsuccessful party to the proceeding will pay the reasonable attorneys' fees and

legal costs of both parties, both at trial and on appeal, as those fees and costs may be approved by the court having jurisdiction over the proceeding.

Dated this 10 day of August, 2015.

Edward M. Sporich  
EDWARD M. SPORICH

Wade K. Fisher  
WADE K. FISHER

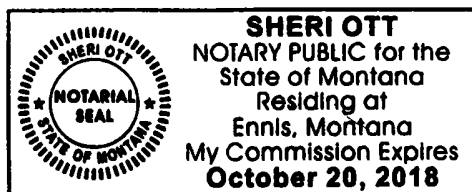
Traci L. Todd  
TRACI L. TODD

STATE OF MONTANA       )  
                                      : ss.  
County of Madison       )

On this 10 day of August, 2015, before me, a Notary Public for the State of Montana, personally appeared EDWARD M. SPORICH and TRACI L. TODD, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have executed this instrument the date and year above written.

(Notarial Seal)

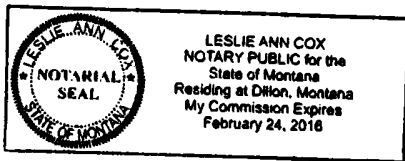


Sheri Ott  
Notary Public for the State of Montana  
Printed Name: Sheri Ott  
Residing at: Ennis MT  
My Commission Expires: 10/20/18

STATE OF MONTANA       )  
                                      : ss.  
County of Madison       )

On this 10 day of August, 2015, before me, a Notary Public for the State of Montana, personally appeared WADE K. FISHER, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have executed this instrument the date and year above written.



(Notarial Seal)

A handwritten signature in cursive script, appearing to read "Leslie Ann Cox".

Notary Public for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**CERTIFICATE OF SURVEY**  
NEW 1/4 SECTION 31, T.4S., R.7W., P.4M., M.  
JACKSON, COUNTY, MONTANA

**LEGENDA**

1. All sections in this map are of the same size and shape, and are all of the same value.

2. All sections in this map are of the same size and shape, and are all of the same value.

3. All sections in this map are of the same size and shape, and are all of the same value.

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10. All sections in this map are of the same size and shape, and are all of the same value.

**SECTION 31**

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**SECTION**

Return To:  
Erb & Suenram, PLLC  
PO Box 1366  
Dillon, MT 59725

EXHIBIT B

146705 RECORDS Pages: 4  
STATE OF MONTANA MADISON COUNTY  
RECORDED: 07/18/2012 4:40 KOI: DEED  
Peggy Kantz Stenler CLERK AND RECORDER  
FEE: \$28.00 BY: Peggy Kantz Stenler  
TO: ERB & SUENRAM PO BOX 1366, DILLON MT 59725

pm  
pm

WARRANTY DEED

420401

FOR VALUE RECEIVED, this 17 day of July, 2012, CLEVE P. WITHAM, of PO Box 197, Twin Bridges, Montana 59754, Grantor, does hereby grant, bargain, sell, convey and confirm unto WADE K. FISHER of PO Box 237, Twin Bridges, Montana 59754, the Grantee, and to his heirs and assigns, that certain real property situated in the County of Madison, State of Montana, more particularly described as follows:

A tract of land located in the NE $\frac{1}{4}$  of Section 23, Township 4 South, Range 7 West, P.M.M., Madison County, Montana, more particularly shown and described as Tract B4 on Certificate of Survey filed in Book 7 of Surveys, page 2225-FC, records of Madison County, Montana.

Reserving unto Grantor and the owner of Tract B3, Book 7, Page 2225-FC and their heirs and assigns, a 500' easement along the west boundary of Tract B4, Book 7, Page 2225-FC for the purpose of allowing the last three towers of a center pivot irrigation system to cross over Tract B4. Said easement includes the right of physical passage of the pivot through any fences, as well as a right of ingress and egress to maintain and repair the pivot. This easement is intended to benefit Tract B3, Book 7, Page 2225-FC

The following appurtenances are to be conveyed by Seller to Buyer without any warranty, either express or implied.

1. Water rights and ditch easements;
2. Mineral rights;

TOGETHER WITH:

- (a) All and singular the premises above described hereto, together with all tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining.

- (b) All mineral, gas, oil and other hydrocarbon rights not conveyed or reserved by Grantor's predecessors in title.

SUBJECT TO:

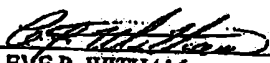
- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency, which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by public record;
- (b) Real property taxes and assessments for 2012, and real property taxes and assessments for all subsequent years;
- (c) Easements, liens or encumbrances, or claims thereof, which are not shown by the public records;
- (d) Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records;
- (e) (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water; ditch rights; (d) any right, title or interest in any sand and gravel and/or minerals including access to and from to extract minerals, mineral rights, or related matters, including, but not limited to oil, gas, coal and other hydrocarbons; whether or not the matters excepted under (a), (b), (c), or (d) are shown by the public records;
- (f) Any lien or right to a lien for services, labor or material heretofore or hereafter furnished, imposed by law and not shown on public records;
- (g) Any service, installation or connection charge for any and all utilities, including, but not limited to sewer, gas, water or electricity;
- (h) County road rights-of-way not recorded and indexed as a conveyance of record in the office of the Clerk and Recorder pursuant to Title 70, Chapter 21, M.C.A., including but not limited to any right of the Public and the County of Madison to use and occupy those certain roads and trails;
- (i) Rights of others thereto entitled in and to the continued uninterrupted flow of water through ditches crossing the premises and the right to clean and maintain the same;

- (j) Easement granted to Montana Railway Company, recorded March 22, 1987 in Book 44, page 129;
- (k) Easement granted to Vigilante Electric Cooperative, Inc., recorded November 23, 1994 in Book 385, page 524;
- (l) All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by Record of Survey recorded June 19, 2008, as Book 7 of Surveys, page 2034-FC, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c);
- (m) All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by Record of Survey recorded December 6, 2011, as Book 7 of Surveys, page 2212-BA, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c);
- (n) Easement for ingress and egress reserved by the Boken Family Trust, recorded January 26, 2012 as Document No. 144245;
- (o) All matters, covenants, conditions, restrictions, easements and any rights, interests or claims which may exist by reason thereof, disclosed by Record of Survey recorded May 2, 2012, in Book 7 of Surveys, page 2225-FC, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c);

TO HAVE AND TO HOLD, all and singular, the above described premises unto Grantees, and to their heirs and assigns, forever.

The Grantor does hereby covenant that he will forever warrant and defend all right, title and interest in and to the said premises and to quiet and peaceable possession thereof, unto the Grantees, and their heirs and assigns, against the acts and deeds of the Grantor, and all and every person or persons, whomsoever, lawfully claiming or to claim the same.


IN WITNESS WHEREOF, the Grantor has executed this instrument the day and year first hereinabove written.

  
 \_\_\_\_\_  
 CLEVE P. WITHAM

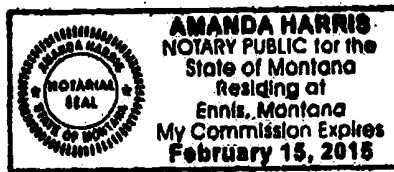


STATE OF MONTANA            )  
  : ss.  
COUNTY OF MADISON        )

This instrument was acknowledged before me this 16 day of July, 2012 by CLEVE P. WITHAM.

  
\_\_\_\_\_  
Notary Public for the State of Montana  
Printed Name: \_\_\_\_\_  
Residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

(SEAL)



## **EXHIBIT C**

**T&L Pivot; 5 Tower spans 1,022 feet, new installed in 2012**

**\*Pumps, motors:**

**At ditch diversion: 25HP Baldor Motor and Cornell Pump (Baldor Model 4RB-CC;  
Serial # 176696 10.69)**

**\*At Pivot; 15HP EEG Electric Motor (Model 015BEP3E254TC)**

**\*Diversion sump at diversion.**