

4 PAGE DOCUMENT

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2072173 08/20/02 0430PM  
MONIKA TODD CLK&REC MESA COUNTY CO  
REC FEE \$20.00

AGREEMENT

This AGREEMENT is made and entered into effective March 1, 2001, by and between PARKERSON BROTHERS, LLC, a Colorado limited liability company ("Parkerson"), STONE MOUNTAIN ESTATES HOMEOWNERS ASSOCIATION, INC., a Colorado non-profit corporation ("Homeowners Association"), and the undersigned adjacent property owners ("Adjoiners").

RECITALS

- A. Parkerson is the owner and developer of a single-family residential subdivision located in Fruita, Colorado, known as Stone Mountain Estates ("Stone Mountain").
- B. Adjoiners are adjacent property owners to Stone Mountain and/or signatories hereto who have historically received their irrigation water through irrigation ditches over and across Stone Mountain.
- C. Parkerson has designed and desires to construct improvements to the irrigation ditch system over and across Stone Mountain for the benefit of Stone Mountain and the Adjoiners.
- D. Homeowners Association is a party to the Agreement as Homeowners Association will be accepting ownership of the irrigation system upon the completion of the construction of the irrigation system.
- E. Parkerson and Homeowners Association have requested the Adjoiners' consent to the proposed irrigation improvements, and the Adjoiners have agreed to consent to same subject to the terms and conditions hereafter set forth.

NOW, THEREFORE, for and in consideration of the premises contained herein, the parties hereto mutually covenant and agree as follows:

- 1. Parkerson shall construct a piped irrigation water delivery system ("System") over and across Stone Mountain in compliance with the plans and specifications prepared by Criterion Engineering Corporation, formerly known as Banner Engineering, Inc.
- 2. Parkerson, subject to a construction warranty for one (1) year, shall transfer the ownership of the System to the Homeowners Association upon completion of construction.
- 3. The System shall deliver irrigation water to the Adjoiners equal to or better than the quantity and quality of irrigation water historically received by the Adjoiners.

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4. Homeowners Association shall be responsible for the operation, cleaning and maintenance of the System and shall ensure the System delivers irrigation water to the Adjoiners which is equal to or better than the quantity and quality of irrigation water historically received by the Adjoiners. Without notice and consent of the Adjoiners, the System shall not be allowed to be out of operation during the irrigation season for more than 48-consecutive hours.

5. Homeowners Association hereby shall defend and hold all Adjoiners harmless from any and all third-party claims of damage or otherwise as a result of System flooding, failure of adequate maintenance and repair and operation of the System.

6. Homeowners Association shall amend its existing covenants to include a provision requiring notification to and consent by Adjoiners prior to any modification or change in the System and that this requirement may not be altered or amended within the covenants of the Homeowners Association without the written consent of Adjoiners and their successors in interest.

7. Adjoiners shall, at all times, have access and entry to the headgates located on Stone Mountain.

8. The provisions of this Agreement are binding upon the heirs, successors, assigns, representatives and agents of the parties hereto.

9. If a party is in breach of the terms and conditions of this Agreement, the remaining party or parties ("Prevailing Party") shall, in addition to any damages or other legal remedies available to the Prevailing Party, be awarded reasonable attorney fees and costs incurred in enforcing the terms and conditions of this Agreement.

10. Parkerson shall deliver a copy of the System plans to each of the undersigned Adjoiners and upon their execution hereof each Adjoiner consents to the construction of the System in replacement of the existing open ditch irrigation system over and across Stone Mountain.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year set forth above.

"PARKERSON"

PARKERSON BROTHERS, LLC, a Colorado limited liability company

By:

  
Alan Parkerson, Manager

(Signatures continued on Page 3)

(Signatures continued from Page 2)

"HOMEOWNERS ASSOCIATION"

STONE MOUNTAIN ESTATES HOMEOWNERS ASSOCIATION, INC., a Colorado non-profit corporation

By: [Signature]  
President

ATTEST:  
[Signature]  
Secretary

"ADJOINERS"

[Signature]  
Signature  
Printed Name: ROBERT C. BOON JR  
972-17 1/2 Rd  
FRUITA CO 81521  
Address

[Signature]  
Signature  
Printed Name: Harold Henry  
960-17 1/2 Rd  
FRUITA CO 81521  
Address

[Signature]  
Signature  
Printed Name: Chuck Stockman  
970-17 1/2 Rd Fruta CO. 81521  
402-5th Street Dr. Clifton Colo. 81520  
Address

[Signature]  
Signature  
Printed Name: Kenneth Henry  
948 17 1/2 Rd  
FRUITA, CO 81521  
Address

\_\_\_\_\_  
Signature  
Printed Name: \_\_\_\_\_  
\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature  
Printed Name: \_\_\_\_\_  
\_\_\_\_\_  
Address



PROPERTY OF FRUITA-STONE AGREEMENT-REGISTRATION

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(Signatures continued from Page 2)

Leona M. Arcuby  
 Signature  
 Printed Name: LEONA M. ARCUBY  
 945 17<sup>1/2</sup> Rd.  
 81521  
 Address

Kenneth Henry  
 Signature  
 Printed Name: KENNETH HENRY  
 968 17<sup>1/2</sup> Rd  
 Fruita, CO 81521  
 Address

Arnold P. Arcuby  
 Signature  
 Printed Name: ARNOLD P. ARCUBY  
 945 17<sup>1/2</sup> Rd.  
 81521  
 Address

Don Fitch  
 Signature  
 Printed Name: Don Fitch  
 956 17<sup>1/4</sup> Road  
 81521  
 Address 243-1360

Anna Belle Karp  
 Signature  
 Printed Name: Anna Belle Karp  
 958 17<sup>1/2</sup> Rd.  
 Fruita, Colorado 81521  
 Address

Steve Dadahl  
 Signature  
 Printed Name: Steve Dadahl  
 960 17<sup>1/4</sup> Rd.  
 Fruita CO 81521  
 Address