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AGREEMENT AND EASEMENTVol. ^m79 Page 2159

Agreement entered into this 6 day of ~~September~~ ^{JANUARY} 1979, 1978, *De C/E*
by CHARLES I. COLLINS and SHIRLEY J. COLLINS, husband and wife,
(hereafter "Collins"), OBIL S. COLLMAN and BERNEICE COLLMAN, hus-
band and wife, (hereafter "Collman") and JAMES A. BINGHAM and
BERNADINE K. BINGHAM, husband and wife, (hereafter "Bingham").

BACKGROUND INFORMATION

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Bingham is the owner of a tract of land, hereinafter described, which is situated in Klamath County, Oregon and known as 9425 Dehlinger Lane, Klamath Falls, Oregon. Collman is the record owner of an adjacent tract of land, hereinafter described, which is situated in Klamath County, Oregon and known as 9149 Dehlinger Lane, Klamath Falls, Oregon. Collman sold said tract to Collins under an agreement dated July 12, 1972, and recorded in volume 77 at page 9631 of the deed records of Klamath County, Oregon.

There is an existing road on Bingham's land which is used by both Bingham and Collins for purposes of access from Dehlinger Lane. Under the agreement between Collman and Collins, Collins is to have a 20 foot easement for access purposes across the land now held by Bingham, but said easement is not adequately described.

Both Bingham and Collins desire to use the existing road for access to their respective tracts of land, and all parties here- to desire to define their respective rights relative to the

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use of said road.

Now therefore, in consideration of these premises and the conveyance and promises contained herein, it is hereby agreed:

AGREEMENT

1. EASEMENT GRANTED: Bingham hereby conveys to Collins a perpetual, nonexclusive easement

a) To use a strip of land consisting of the south 20 feet of the following described real property situated in Klamath County, Oregon:

A tract of land situate in Section 5, Township 40 South, Range 10 East of the Willamette Meridian, more particularly described as follows:

Beginning at the most Northwesterly corner of above said tract of real property, which corner lies at the intersection of the Easterly right of way boundary of the Burlington Northern Inc. railroad and the Easterly right of way boundary of the U.S. G-1 Lateral irrigation canal; thence along said irrigation canal right of way boundary North 40°29'30" East 383.44 feet, and North 78°16' East 311.64 feet to a ½ inch galvanized iron pipe marking the true point of beginning of this description; thence continuing along above said canal right of way boundary North 35°58' East 478.25 feet, more or less, to the Southerly right of way boundary of U.S.G canal; thence along said boundary South 56°23'30" East, 223.80 feet South 58°36' East, 366.50 feet and South 86°24' East, 317.60 feet to a ½ inch galvanized iron pipe in alignment with an existing North-South fence line; thence along said fence alignment South 5°55'30" West 1098.40 feet and South 0°48'30" East, 72.20 feet, more or less, to a point on the North boundary extended of that parcel of real property described and recorded in M-70 at page 9929 of Deed Records of Klamath County, Oregon and distant 60.45 feet from the Northeast corner thereof; thence South 83°01'45" West along

said boundary and boundary extended a distance of 992.05 feet, more or less, to a $\frac{1}{2}$ inch galvanized iron pipe which is distant 153.70 feet Easterly from the most Northwesterly corner of aforesaid parcel of real property; thence North 1232.84 feet to the true point of beginning.

b) To use a strip of land consisting of the east 30 feet of the following described real property also situate in Klamath County, Oregon:

A tract of land situated in Section 5, Township 40 South, Range 10 East of the Willamette Meridian, more particularly described as follows:

Beginning at the Southwest corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 5; thence North along the center line of Section 5 to the Southerly right of way of the G Canal as now located; thence Northwesterly along the Southerly line of the G Canal to a point that is South 56°23'30" East 223.80 feet; South 58°36' East 366.50 feet, and South 86°24' East 317.60 feet from its intersection with the Southeasterly right of way line of the G-1 lateral; thence South 5°55'30" West 1098.40 feet; thence south 0°48'30" East 72.20 feet to the true point of beginning; thence South 83°01'45" West 60.45 feet; thence South 0°48'30" East 923.30 feet to the South line of Section 5; thence East along said South line 60.45 feet; thence North 923 feet, more or less, to the point of beginning. EXCEPTING THEREFROM that portion lying within the Dehlinger Lane right of way.

2. USE OF EASEMENT: Collins, his agents, independent contractors and invitees shall use the easement for road purposes only for access to the real property described in Paragraph 3 below. Bingham reserves the right to use, construct, reconstruct and maintain the existing road located on the easement for purposes of access to the real property described in Paragraph 1.

3. APPURTENANT PROPERTY: This easement is appurtenant to the real property owned by Bingham described in Paragraph 1 and to

the real property owned by Collman and sold to Collins, which is more particularly described as follows:

A portion of that tract of land recorded in Volume 358, page 340 of Deed Records of Klamath County, Oregon, described therein as being in Section 5, Township 40, South, Range 10, E.W.M., said portion being more particularly described as follows:

Beginning at the most Northwesterly corner of aforesaid tract of land, which corner lies at the intersection of the Easterly right of way boundary of the Great Northern Railway Company railroad (Burlington Northern Railway Co.) and the Southeasterly right of way boundary of U.S. G-1 lateral irrigation canal; thence along said irrigation canal right of way boundary North $41^{\circ}29'30''$ East 383.44 feet and North $78^{\circ}16'00''$ East 311.64 feet; thence leaving said canal boundary and bearing South 1232.84 feet to a $\frac{1}{2}$ inch iron pipe located on the Northerly boundary of that parcel of real property described and recorded on Microfilm Number M-70, Page 9929 of deed records of Klamath County, Oregon; thence along said property boundary South $83^{\circ}01'45''$ West 153.70 feet to the most Northwesterly corner thereof, which corner is marked with an iron pipe and lies on the Easterly right of way boundary of the aforesaid Great Northern Railway Company railroad; thence along said railroad right of way boundary North $24^{\circ}17'30''$ West, 988.40 feet to the point of beginning, containing 10.40 acres, more or less.

4. BENEFIT: This agreement and the easement conveyed herein, shall be binding on the heirs, successors, and assigns of all parties.

5. PRIOR ENCUMBRANCES: This easement is granted subject to all prior easements and encumbrance of record.

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IN WITNESS WHEREOF, the parties have caused the instrument to be executed the day and year first above written.

James A. Bingham
James A. Bingham

Obil S. Collman
Obil S. Collman

Bernadine K. Bingham
Bernadine K. Bingham

Berneice Collman
Berneice Collman

Charles I. Collins
Charles I. Collins

Shirley J. Collins
Shirley J. Collins

STATE OF OREGON)
COUNTY OF LAINE)
PUBLIC)

On this 25th day of SEPTEMBER, 1978, personally appeared the above named JAMES A. BINGHAM and BERNADINE K. BINGHAM, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

John Thomas
NOTARY PUBLIC FOR OREGON
My Commission Expires: 9/19/79

STATE OF OREGON)
COUNTY OF Klamath)
PUBLIC)

On this 6 day of January, 1979, personally appeared the above named OBIL S. COLLMAN and BERNEICE COLLMAN, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

John G. Chant
NOTARY PUBLIC FOR OREGON
My Commission Expires: 8/29/81

STATE OF OREGON)
County of Klamath : ss.

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On this 6 day of January, 1979, personally appeared the above named CHARLES I. COLLINS and SHIRLEY J. COLLINS, their voluntary act and deed. and acknowledged the foregoing instrument to be



Before me:

Steven J. Quinn
NOTARY PUBLIC FOR OREGON
My Commission Expires: 8/29/81

STATE OF OREGON; COUNTY OF KLAMATH; ss.
Filed for record at request of Jean Collins
this 25th day of January A. D. 1979 at 2:12 o'clock P. M., and
fully recorded in Vol. M79, of Deeds on Page 2159

Fee \$18.00 By Wm D. MILNE, County Clerk
Bernetha Shetsch

Return to:
Charles Collins
9149 Dahlinger Lane
K-70