

JOINT USE AGREEMENT

*33077

KNOW ALL MEN BY THESE PRESENTS that the individual owners of the real property herein described hereby acknowledge that said real property is benefited and served by a presently existing irrigation water transportation ditch, structures, improvements, and facilities thereon (herein called "Irrigation System") referred to and made the subject of that certain "PROTOCOL FOR POPE-FLESHER-DUNCAN IRRIGATION SYSTEM" attached hereto as Exhibit "1" and thereby made a part hereof as though fully set forth hereat.

The real property benefited and served by the Irrigation System is situate in Klamath County, Oregon, and is more particularly described as follows:

Township 40 S., R. 11 E.W.M.:

Sec. 28: $S\frac{1}{2}S\frac{1}{2}NW\frac{1}{4}$; $S\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$; $SW\frac{1}{4}$; $W\frac{1}{2}SE\frac{1}{4}$.

Sec. 29: $S\frac{1}{2}S\frac{1}{2}NE\frac{1}{4}$; $SE\frac{1}{4}$; that portion of the $E\frac{1}{2}SW\frac{1}{4}$ which is irrigable land; $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$.

Sec. 32: $E\frac{1}{2}NE\frac{1}{4}$.

Sec. 33: The irrigated portion of $W\frac{1}{2}NE\frac{1}{4}$; that portion of the $E\frac{1}{2}SE\frac{1}{4}$ lying Southwesterly of the existing irrigation ditch; the irrigated portion of the $NW\frac{1}{4}$; the irrigated portion of the $E\frac{1}{2}SW\frac{1}{4}$; the irrigated portion of the $W\frac{1}{2}SE\frac{1}{4}$.

Township 41 S., R. 11 E.W.M.:

Sec. 3: That portion of the $W\frac{1}{2}NW\frac{1}{4}$ lying Westerly of the existing irrigation ditch.

Sec. 4: All of the $NE\frac{1}{4}NE\frac{1}{4}$ lying Westerly of the existing irrigation ditch; the $N\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ lying Westerly of the existing irrigation ditch; the $S\frac{1}{2}SE\frac{1}{4}NE\frac{1}{4}$ lying Westerly of the existing irrigation ditch, less approximately 6 acres conveyed by Deed dated September 5, 1961, recorded Vol. 332, Page 286, Deed Records of Klamath County, Oregon, to which Deed reference is hereby made for more particulars; that portion of the $NE\frac{1}{4}SE\frac{1}{4}$ lying Westerly of the existing irrigation ditch; the irrigated portion of $NW\frac{1}{4}NE\frac{1}{4}$.

The Irrigation System commences at the "D" Canal in the $SE\frac{1}{4}SE\frac{1}{4}$ of Section 4, Township 41 S., R. 11 E.W.M., and courses thereafter in a Northerly and Westerly direction, the exact courses of which are presently located upon the land, as evidenced by Agreement recorded July 5, 1957, Vol. 292, Page 577, Deed Records of Klamath County, Oregon, to which recorded instrument reference is hereby made for more particulars.

This Instrument shall constitute a perpetual right and easement across the real property herein described and shall be appurtenant to, and running with, the real property herein described, and shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties, including, but not limited to, any mortgagee of the herein described real property and the assigns of any such mortgagee. To the extent that any party hereto should subsequently convey any portion of the real property benefited and served by the Irrigation System, such grantee shall acquire proportionately such share of the water use, maintenance, repairs, and replacement responsibilities as the proportion of the property so conveyed bears to the total real property benefited and served by the Irrigation System.

EXECUTED in Klamath Falls, Oregon, on the date set opposite the signatures of the parties hereto.

DATE

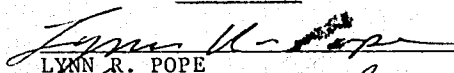
6-13-80

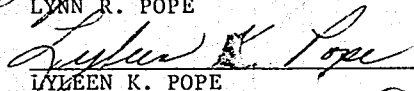
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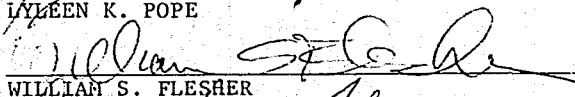
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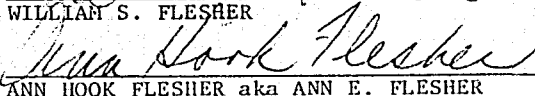
6-16-80

SIGNATURE


LYNN R. POPE


LYLEEN K. POPE


WILLIAM S. FLESHER


ANN HOOK FLESHER aka ANN E. FLESHER

31106
Charles G. Duncan
CHARLES G. DUNCAN

Leone M. Duncan
LEONE M. DUNCAN

J. Randall Pope
J. RANDALL POPE

Virginia Lee Pope
VIRGINIA LEE POPE

6-13-80
6-13-80
6/16/80
6/16/80

STATE OF OREGON)
) ss:
County of Klamath)

Before me this 13 day of June, 1980, personally appeared the above named LYNN R. POPE and LYLEEN K. POPE, husband and wife, and acknowledged the above instrument to be their voluntary act and deed:

(SEAL) KIRSTINE L. PROCK
NOTARY PUBLIC -- OREGON
STATE OF OREGON)
) ss:
County of Klamath)

Before me this 16 day of June, 1980, personally appeared the above named WILLIAM S. FLESHER and ANN HOOK FLESHER aka ANN E. FLESHER, husband and wife, and acknowledged the above instrument to be their voluntary act and deed.

(SEAL) KIRSTINE L. PROCK
NOTARY PUBLIC -- OREGON
STATE OF OREGON)
) ss:
County of Klamath)

Before me this 13 day of June, 1980, personally appeared the above named CHARLES G. DUNCAN and LEONE M. DUNCAN, husband and wife, and acknowledged the above instrument to be their voluntary act and deed.

(SEAL) KIRSTINE L. PROCK
NOTARY PUBLIC -- OREGON
STATE OF OREGON)
) ss:
County of Klamath)

Before me this 16 day of June, 1980, personally appeared the above named J. RANDALL POPE and VIRGINIA LEE POPE, husband and wife, and acknowledged the above instrument to be their voluntary act and deed.

(SEAL) KIRSTINE L. PROCK
NOTARY PUBLIC -- OREGON
STATE OF OREGON)
) ss:
County of Klamath)

Kirstine L. Prock
NOTARY PUBLIC FOR OREGON
My Commission Expires: 12/16/80

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PROTOCOL FOR POPE - FLESHER - DUNCAN
IRRIGATION SYSTEM

- 1) The pumping capacity of the system is 12 sec-ft through two pipes and three pumps of 75, 60 and 50 hp. Approximate lift is 75 ft.
- 2) Although the pumps pump about 12 sec-ft, we feel the ditch loss is at least one sec-ft and during hot weather, late in the season it may be more.
- 3) The water is delivered through a ditch to the respective land owners who share all operating expenses, eg. electricity, pump and pipe repair, ditch cleaning, and chemicals for controlling weeds.
- 4) The participants cooperate in maintenance projects whenever necessary to prepare for starting water in the spring and during the season to keep the water flowing. Generally, each land owner is responsible for burning weeds, leaks and other routine problems in his part of the ditch.
- 5) Costs and available water are shared on a basis proportional to the acreage each land owner has under the system. The percentage share of each land owner is:
Pope --- 40.422%
Duncan --- 11.161%
Flesher --- 48.416%
- 6) Cooperation is an essential part of the satisfactory operation of the system. Each participant must be willing to help keep it functioning. Each participant must let the others know when he needs water and when he is through with it.
- 7) A new participant will need to be instructed in the operation and maintenance of the pumps and ordering water for them.
- 8) The system has several problems which need to be corrected: (a) Too many ditch weeds restrict flow and increase losses. Hand cutting, spraying and sterilization is needed. (b) The pipes from the pumps to the head of the ditch will eventually need to be replaced, one has been in for 40+ years. (c) Scaffolding in one of the pump sumps needs replacement.

Return to:
Giacomini, Jones & Assoc.
635 Main
Klamath Falls, Or 97601

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 17th day of June A.D., 19 80 at 11:58 o'clock A M., and duly recorded in Vol. M80 of Deeds on Page 11105.

FEE \$10.50

WM. D. MILNE, County Clerk

By Bernetha J. Helock Deputy