

93532

Vol. <sup>M 30</sup> Page 23890  
EASEMENT

Date 12/9/80

For valuable consideration received, JELD-WEN, inc., an Oregon corporation (Grantor) conveys to Richard A. Smith and Geneva A. Smith, husband and wife as tenants by entirety, their heirs, successors, and assigns (Grantee):

(1) A perpetual nonexclusive easement to use two irrigation ditches presently existing within and passing through the premises owned by Grantor described below, for the purpose of continuing the present use of said irrigation ditches of transporting water to Grantee's adjoining land.

(2) In addition to (1) above, a perpetual nonexclusive easement to use any and all roads presently existing or hereafter constructed within and crossing over the premises owned by Grantor described below, as a means of ingress and egress to and from said irrigation ditches in order to allow Grantee access to inspect, repair, and maintain said irrigation ditches as required under the terms of this easement.

Grantor's land which is affected and burdened by this grant of easement is situate in Klamath County, Oregon, and is more particularly described as follows:

SE 1/4 SW 1/4, S 1/2 SE 1/4, NE 1/4 SE 1/4 of Section 8;  
W 1/2 SW 1/4 of Section 9; S 1/2 NW 1/4, S 1/2 NE 1/4 NW  
1/4, NW 1/4 SW 1/4, NW 1/4 NW 1/4 of Section 16; NE 1/4,  
NE 1/4 NW 1/4 of Section 17; all in township 40 South,  
Range 13 East of Willamette Meridian.

The terms of this easement are as follows:

1. Grantee, his agents, independent contractors and invitees shall use the irrigation ditches for irrigation purposes only, specifically, to transport water across Grantor's land, described above, to the adjacent land owned by Grantee. Grantee shall use the roads which presently exist

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1 or which may hereafter be constructed on the land of Grantor for purposes  
2 of access to and from the irrigation ditches only, specifically, as a means  
3 of ingress and egress to make inspections, repairs, and generally to  
4 maintain said irrigation ditches.

5 2. Grantee shall have the affirmative duty to inspect, repair, and  
6 maintain said irrigation ditches, at Grantee's own expense and when  
7 necessary, including such rock check dams and other devices as is necessary  
8 to prevent soil erosion and to prevent water spread in amounts likely to  
9 kill commercial tree species.

10 3. Grantee shall have the duty to repair, at Grantee's own expense,  
11 any excessive or unusual damage to any roads on Grantor's property caused  
12 by Grantee.

13 4. ~~Grantor reserves the right to use and maintain the irrigation~~  
14 ~~ditches for Grantor's own irrigation purposes and Grantor may grant use~~  
15 ~~rights to third parties. The parties shall cooperate during periods of~~  
16 ~~joint use so that each party's use shall cause minimum interference to the~~  
17 ~~others, however, in case of conflict, Grantor's right of use shall be~~  
18 ~~dominant.~~ RAS  
JTB

19 5. Grantor reserves the right to relocate either of the two irri-  
20 gation ditches or both of such ditches at any time and in such case shall  
21 reconstruct the irrigation ditches at such new location in as good or better  
22 condition as existed at the prior location. If the irrigation ditches are  
23 relocated, Grantor may record an instrument indicating the location of the  
24 new ditch or ditches and such instrument shall serve to amend this ease-  
25 ment and eliminate the rights of Grantee in the original irrigation ditches  
26 covered by this easement. Such amendment shall be effective whether or  
27 not signed by the Grantee, but Grantee shall execute it or such other  
28 document necessary to indicate relocation of the irrigation ditches when

1 and if requested by the Grantor.

2 6. Grantee agrees to indemnify and defend Grantor from any loss,  
3 claim or liability to Grantor arising in any manner out of Grantee's use of  
4 the irrigation ditches or the roads on Grantor's property. Grantee shall  
5 pay Grantor for any merchantable timber or other property of Grantor's  
6 damaged by Grantee's use of this easement. Grantee assumes all risk  
7 arising out of his use of the irrigation ditches and roads on Grantor's  
8 property and Grantor shall have no liability to Grantee or others for any  
9 condition existing thereon.

10 7. This easement shall be perpetual, however, in the event that the  
11 easement is not used by Grantee for a period of three years or if otherwise  
12 abandoned by Grantee, the easement shall automatically expire and Grantee  
13 shall, upon request, execute a recordable document evidencing such  
14 expiration.

15 8. This easement is granted subject to all prior easements and  
16 encumbrances of record.


17 9. This easement is appurtenant to the real property owned by Grantee,  
18 which land is adjacent to the above described property owned by Grantor.

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

21 GRANTOR


JELD-WEN, inc.

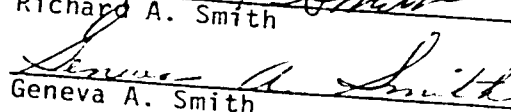
22 by



23 Title

24 GRantee

25   
26 Richard A. Smith

27   
28 Geneva A. Smith

23893

1 State of Oregon )  
2 County of Klamath ) ss.  
3

4 Personally appeared R L Wendt, President  
5 of JELD-WEN, inc. an Oregon corporation, who being first duly sworn, did say  
6 that the instrument was signed and sealed on behalf of said corporation by  
7 authority of its board of directors and each of them acknowledged said  
8 instrument to be its voluntary act and deed.

9  
10  
11 BEFORE ME:

12 June Sanders  
Notary Public for Oregon  
My commission expires: 2/14/83

13  
14 State of Oregon )  
15 County of Klamath ) ss.  
16

17 Personally appeared the above mentioned Richard A. Smith and Geneva  
18 A. Smith and acknowledged the foregoing instrument to be their voluntary  
19 act and deed.

20  
21  
22 BEFORE ME:

23 June Sanders  
Notary Public for Oregon  
My commission expires: 2/14/83

24  
25 AFTER RECORDING RETURN TO:

26 Richard A. and Geneva A. Smith  
27 Route 1, Box 66  
28 Bonanza, OR 97623

STATE OF OREGON, )  
County of Klamath )  
Filed for record at request of

Jeld-Wen, Inc.  
on 10th December 1980  
at 10:36 A M  
M80 Deeds  
CG# 23890

By Richard A. Smith County Clerk

Fee \$14.00

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