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Vol. M80 Page 14583

RECIPROCAL EASEMENT AGREEMENT

EFFECTIVE DATE: June 10, 1986

PARTIES: MICHAEL L. BRANT and LAURA L. BRANT (BRANT),
husband and wife;LOUIS T. HILL and IRENE F. HILL (HILL),
husband and wife;LAWRENCE W. CLARK and KATHERINE R. CLARK (CLARK),
husband and wife.RECITALS:A. Property Ownership.

1. HILL owns two contiguous parcels of real property near Merrill, Klamath County, Oregon, which are legally described in Exhibit "A" and by reference incorporated in this Agreement. Parcel 2 lies immediately to the north of Parcel 1. These parcels are hereafter referred to as "HILL Parcel 1" and "HILL Parcel 2" respectively and collectively as "HILL'S property."

2. BRANT owns real property near Merrill, Klamath County, Oregon, which is legally described in Exhibit "B" and by reference incorporated in this Agreement. This property is hereafter referred to as "BRANT'S property." BRANT'S property lies immediately to the east of parcel 2 of HILL'S property.

3. CLARK owns real property near Merrill, Klamath County, Oregon, which is legally described in Exhibit "C" and by reference incorporated in this Agreement. This property is hereafter referred to as "CLARK'S property." CLARK'S property lies immediately to the south of BRANT'S property and immediately to the east of parcel 1 of HILL'S property.

B. The 1965 Easement.

CLARK bought his property on December 15, 1965, from J. K. and Peggy Ann O'Neill (O'Neills). The conveyance was recorded on December 21, 1965, in the Klamath County Deed Records at Volume M65, Page 4833. As part of the transaction, O'Neills reserved an easement of access across CLARK'S property from the county road to property the O'Neills retained and which is now BRANT'S property and HILL parcel 2. The reservation language provided:

"Reservation by Grantors [O'Neills] of a strip of land 36 feet in width running in a northerly direction along the westerly boundary of said property as a perpetual easement for roadway and related purposes, including, but not limited to, dedication for public roadway."

'86 AUG 15 PM 4 30

075
53

This easement is hereafter referred to as the "1965 easement."

C. The 1971 Lawsuit.

In 1971, CLARK brought an action against HILL alleging that HILL trespassed and asking the court to require HILL to remove a boundary fence between HILL parcel 1 and CLARK'S property. The case was entitled Clark v. Hill, Klamath County Circuit Court Case No. 71-147E. A judgment was entered in the case determining the boundary to be at a location approximately 20 feet to the east of a then existing feed lot fence on HILL parcel 1. When he purchased the property, CLARK asserts he believed that his property extended to the feed lot fence.

D. The 1976 Sales.

On May 11, 1976, O'Neills sold to HILL the property they had retained at the time of the sale to CLARK. A memorandum of the O'Neill-HILL contract was recorded in the Klamath County Deed Records at Book M76, Page 7099, on May 12, 1976. As part of the conveyance, O'Neills sold to HILL their interest in the 1965 easement.

On the same day (May 11, 1976), HILL sold to BRANT a portion of the property HILL had just purchased from the O'Neills -- i.e., the BRANT property legally described in Exhibit "B." HILL retained the property legally described as parcel 2 in Exhibit "A." As part of the sale, HILL conveyed to BRANT an interest in the 1965 easement. HILL eventually gave BRANT a deed to the property, which was recorded in the Deed Records of Klamath County, Book M81, Page 2376, on February 12, 1981.

E. The 1979 Action.

HILL and BRANT both claim an interest in the 1965 easement by virtue of the conveyances recited above. In 1979, HILL and BRANT, as plaintiffs, brought an action in the Circuit Court for the County of Klamath (No. 79-475E), against CLARK and against Peggy Ann O'Neill, to declare the existence, scope and location of the 1965 easement, and to require CLARK to remove alleged obstructions from the easement area. CLARK denies HILL'S asserted interest in the 1965 easement and further denies BRANT'S right to an easement of 36 feet, because an easement of such a width would require CLARK to remove his garage, scales and corral fence -- all structures that existed in 1965 -- and a cattle loading chute constructed after the lawsuit was filed and process served in Case No. 79-475E.

F. Consideration.

The parties desire to resolve their dispute as to the location, scope and ownership of the 1965 easement, to create a mutual, reciprocal easement for access to all of the property

described in Exhibits "A," "B" and "C" and to permit the full enjoyment by each party of his respective property. Therefore, in consideration of the mutual promises contained herein, the parties make the following

AGREEMENT

Section 1. Grant of Easement; Location, Permitted Uses.

1.1 The parties hereby grant and convey to each other permanent, mutual, reciprocal easements and rights of way ("the easement") along a corridor that lies in part upon HILL parcel 1 and in part upon CLARK'S property, as more particularly described in paragraph 1.2 below. The easement shall be continuous and exclusive and the reciprocal rights in the easement shall be appurtenant to all the property legally described in Exhibits "A", "B" and "C" to this Agreement. The benefits and burdens of this Agreement shall run with the land.

1.2 The reciprocal easement shall run north and south along the boundary between HILL parcel 1 and CLARK'S property as determined by the judgment in the case of Clark v. Hill, (Klamath County Circuit Court Case No. 71-147E). The southern terminus of the easement shall be the northern edge of an existing county road (called "Hill Road") that runs northward from Merrill, Klamath County, Oregon, and veers approximately 90° to the west at the entrance to HILL'S and CLARK'S present access roads. The northern terminus of the easement shall be at the east-west boundary line between HILL parcel 1 and HILL parcel 2 and between BRANT'S and CLARK'S property. The easement shall be 44 feet wide west to east and shall consist of the easterly 20 feet of HILL parcel 1, and the westerly 24 feet of CLARK'S property.

A sketch and legal description are attached as Exhibits "D" and "E" and by reference incorporated in this Agreement.

1.3 The reciprocal easement and right of way may be used for vehicular, animal and pedestrian ingress and egress by the parties to this Agreement. In addition, the easement may be used by any party for purposes connected with livestock and/or farming operation, provided, however, that no party shall park or load or unload any vehicle in the easement area, other than under emergency conditions, so as to block or obstruct the access of any other party to use of the easement and further provided that no one may use the easement as a stock holding area.

1.4 Use of the right of way shall be on a regular, continuous, non-priority basis. However, no party's rights hereunder shall lapse in the event of that party's failure to use the easement on a continuous basis.

1.5 All parties agree that during periods of dry weather, use of the easement can create severe dust conditions,

which can disturb CLARK and HILL'S employees and tenants. All parties agree to operate vehicles at a reasonable speed at all times. Each party agrees to ask or direct (as appropriate) his lessees, mortgagees, invitees, guests, customers, relatives, agents and employees to maintain a reasonable speed to minimize the problem. The parties may, as part of annual maintenance or otherwise, agree to treat the easement surface with some sort of dust retardant. The parties agree to ask the county to erect a stop sign at the southwestern corner of the easement (as the entry to Hill Road) and further agree to erect a sign on the eastern border of the easement cautioning drivers to be aware of the dust problem and to reduce their speed accordingly.

1.6 The parties intend to cooperate to the fullest extent in using this reciprocal easement. Each party shall attempt to use the easement in the least intrusive manner possible and, where a problem arises from a given use, shall take all reasonable steps to eliminate or minimize the intrusion from such use.

Section 2.

Construction and Maintenance of Roadway.

The easement shall be improved as follows:

2.1 The parties have consulted and agree that the following repairs are necessary in order to place the easement in usable condition. Those repairs and estimates of the cost thereof are as follows:

| | | |
|-----------|-----------|---|
| Grading | \$ 175.00 | |
| Graveling | \$ 900.00 | (the estimated cost of 3/4 minus rock delivered) |

The condition of the easement with the foregoing modifications is hereafter referred to as its "original condition" and shall be the standard in determining the extent of the maintenance required as set forth below in Section 3.

2.2 Of the costs of putting the easement in its original condition, the CLARKS shall pay the cost of the gravel up to \$900. Brant shall pay the cost of grading up to \$175. The excess shall be borne pro rata by the parties.

2.3 CLARK agrees to remove the existing fence from the boundary line and the stock loading chute within 30 days of the date of this Agreement. CLARK will bear the cost of removal and shall be entitled to keep all materials. As soon as practicable after removal of the existing fence and loading chute, the parties shall arrange for the initial modifications to be made so as to place the easement in its original condition. The modifications shall be done in a workmanlike manner and shall be completed within a reasonable period of time. With the agreement

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of all parties, any party may perform part of the work agreed upon and shall be paid for that work in an amount equal to the estimated costs saved.

2.4 BRANT shall be responsible for removing any obstructions on his property. (See ¶1.1 and Exhibit "D"). CLARK shall remove his northernmost two gates.

2.5 Each party may erect and maintain at his sole expense a stock-proof fence along the easement edge to prevent the trespass of livestock on his property.

Section 3.

Annual Maintenance and Improvements.

3.1 From time to time, in no event less frequently than once per year, the parties shall meet and agree upon the maintenance required to restore the easement to its original condition as set forth in paragraph 2.1 above.

3.2 The parties may from time to time agree that certain "improvements" be made to the easement. "Improvements," as distinguished from "maintenance," are those procedures or structures that enhance the value of the easement over its value in its original condition (e.g., paving, underground utilities, etc.). Improvements shall generally benefit all of the parties.

3.3 A decision to improve the easement or to take steps to restore it to its original condition requires the agreement of a majority of the parties. The cost of such improvement or restoration (maintenance) shall not exceed \$450 in any calendar year unless such agreement is in writing and signed by all of the parties. The cost of annual maintenance and improvements shall be borne pro rata by the parties. *J.T.H. J.F.H.M.B. FWC KRC*

3.4 Any party may make or erect an improvement, or perform maintenance on the easement, with the agreement of the majority of the parties and may be compensated for his work, provided, however, such compensation shall not exceed a sum equal to a reasonable charge by an independent contractor for the same work.

3.5 If, because of a party's use of the easement, abnormally large ruts develop, structures along the easement are damaged, drainage on the roadway becomes inadequate, or any other abnormal wear and tear occurs, the party causing the damage shall cure the problem within a reasonable time from the date of the damage. If the roadway becomes impassable or ingress or egress is unreasonably impeded or curtailed because of any party's failure to maintain the roadway or repair any damage as required herein, any other party may demand by written notice that remedial work be performed immediately. If such work is not commenced within 2 days of the written notice and completed within a reasonable time thereafter, the other parties shall have the right to cure the problem.

Section 4. Taxes; Condemnation; Dedication.

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4.1 Each party shall pay when due all real property taxes, assessments or other charges against the land to which each party holds fee title and which is part of the private roadway. There shall be no right of contribution from the other parties for such items.

4.2 In the event that the easement or any part thereof is taken by power of eminent domain, or is conveyed under threat of condemnation and such taking will render the easement unusable for normal, regular, two-way vehicular ingress and egress, this Agreement shall terminate. If such taking does not render the easement unusable, the obligation of a party whose portion of the roadway is taken shall be abated to the extent of such taking, but this Agreement shall otherwise continue in full force and effect. Proceeds from any such condemnation shall belong exclusively to the fee title owner of the property so taken.

4.3 If the parties are requested by the appropriate governmental authority to dedicate the roadway for public use, or if the parties so agree, each party shall promptly execute and deliver to the appropriate authority deeds conveying their respective interests in, and portions of, the roadway for such purposes.

Section 5. The 1965 Easement

5.1 HILL and BRANT hereby release and reconvey to CLARK, and renounce any interest in, that portion of the 1965 easement that is not the subject of this Agreement. HILL and BRANT will execute a quitclaim deed furnished by CLARK to effectuate this purpose. The parties shall cause Klamath County Circuit Court Case No. 79-475E to be dismissed with prejudice and without costs to any party.

Section 6. Gates; Existing Encroachments.

6.1 In his sole discretion, BRANT may erect and maintain a gate at the north end of the easement at the entrance to his property. BRANT shall be solely responsible for the costs of erecting and maintaining that gate.

6.2 This easement is subject to an existing power line easement.

6.3 The parties contemplate that, except as otherwise provided, the easement area, when modified as herein provided, will be free of obstruction and encroachment.

Section 7. Remedies.

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7.1 Each party shall be entitled to require full performance of the Agreement by the other parties. All disputes relating to the proper construction of this Agreement and its application to then existing facts, or concerning any violation of this Agreement, shall be resolved by binding arbitration. The party or parties on one side of a dispute shall select one arbitrator; the remaining party shall select an arbitrator. The two arbitrators shall select a neutral third arbitrator. A decision of the majority of the arbitrators shall be binding and shall be enforceable in court as provided in ORS 33.210-33.340.

7.2 In the event arbitration arises under this Agreement, the prevailing party shall recover from the losing party the prevailing party's reasonable attorney fees at hearing, or on appeal as adjudged by the arbitration panel or appellate court.

Section 8. Effect of this Agreement.

The easements granted hereunder shall run with the land as to all property burdened and benefitted by such easements, including any division or partition of such property. The rights, covenants and obligations contained in this Agreement shall bind, burden and benefit each party's successors, assigns, lessees, mortgagees (or beneficiaries under a deed of trust).

Section 9. General.

9.1 This is the entire agreement of the parties.

9.2 Time is of the essence of this Reciprocal Easement Agreement.

9.3 References in this Agreement to the masculine refer equally to the feminine; references to the singular refer to the plural.

9.4 Any modification of this Agreement must be in writing and signed by all of the parties in a manner suitable for recording.

9.5 The costs of recording this Agreement and any modification thereof shall be borne pro rata by the parties.

Michael L. Brant
Michael L. Brant

Laura L. Brant
Laura L. Brant

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Louis T. Hill
Louis T. Hill

Irene F. Hill
Irene F. Hill

Lawrence W. Clark
Lawrence W. Clark

Katherine R. Clark
Katherine R. Clark

Klamath County, Oregon -- ss.

Personally appeared the above named MICHAEL L. BRANT and LAURA L. BRANT and acknowledged the foregoing to be their voluntary act and deed.

Before me this 16th day of June, 1986.

Lynn M. Abel
Notary Public for Oregon

My Commission Expires: 8-1-89

Klamath County, Oregon -- ss.

Personally appeared the above named LOUIS T. HILL and IRENE F. HILL and acknowledged the foregoing to be their voluntary act and deed.

Before me this 16th day of June, 1986.

Lynn M. Abel
Notary Public for Oregon

My Commission Expires: 8-1-89

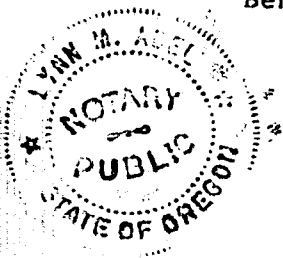
Klamath County, Oregon -- ss.

Personally appeared the above named LAWRENCE W. CLARK and KATHERINE R. CLARK and acknowledged the foregoing to be their

voluntary act and deed.

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Before me this 14th day of Aug., 1986.



Lynn M. Abel
Notary Public for Oregon

My Commission Expires: 8-1-89

AFTER RECORDING RETURN TO:

Michael L. Brant
325 Main St.
Klamath Falls, OR 97601

HILL PROPERTY

14592

HILL PARCEL 1:

Those Portions of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 26
Township 40 South Range 10 East of the Willamette
Meridian, lying North of Hill Road.

HILL PARCEL 2:

Township 40 South, Range 10 East of the Willamette
Meridian: Section 26: E1/2 NE1/4, SW1/4 NE1/4, and
NE1/4 SE1/4.

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BRANT PROPERTY

In Township 40 South, Range 10 East of the Willamette
Meridian:

Section 24: SW1/4 SE1/4 and S1/2 SW1/4 EXCEPTING
THEREFROM the West 10 acres thereof.

Section 25: NW1/4, W1/2 NE1/4, N1/2 SW1/4, NW1/4 SE1/4

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CLARK PROPERTY

S1/2 SW1/4 and W1/2 SW1/4 SE1/4 less the East 124 feet
of said W1/2 SW1/4 SE1/4 in Section 25, Township 40
South, Range 10 East of the Willamette Meridian.

HILL
PARCEL #2

TRAILER

☐ O.D.
PUMPHOUSE

BRANT
PROPERTY

14595

HILL
PARCEL #1

☐ NEW
PUMPHOUSE

CLARK
PROPERTY

CORRAL FENCE

44 ft
20 ft 24 ft

HILL/CLARK BOUNDARY

SC/B
S.T.H.
MAB
S.T.H.
LWC
KRC

GARAGE
GARAGE

S.T.H.
MAB
S.T.H.
LWC
KRC

HOUSE

HILL
PARCEL #1

FRONT FIELD

HILL ROAD

ABCD = EASEMENT

section 26 section 25

N
W E
S

EXHIBIT D PAGE 1 OF 1

STATE OF OREGON: COUNTY OF KLAMATH: SS.

Filed for record at request of _____ the 15th day
of August A.D., 19 86 at 4:30 o'clock P M., and duly recorded in Vol. M86
of _____ Deeds on Page 14583

FEE \$53.00

Evelyn Biehn, County Clerk
By *[Signature]*