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Record & Return to: James R. Uerlings, Esq.  
110 North Sixth Street  
Klamath Falls, OR 97601

#### DECLARATION OF EASEMENT

GARY E. GRIFFITH AND KAREN GRIFFITH, husband and wife, herein called Grantors, grant unto MARJORIE DIVINE AND VICTOR R. DIVINE, husband and wife, as tenants by the entirety, hereinafter call Grantees, the right and take and use water for agricultural purposes from the BLM Ditch running across the real property of the Grantors as hereinafter described.

Grantors property encumbered by this Easement is described as real property located in Klamath County, Oregon:

A tract of land situated in Government Lots 3, 4, 7 and 8 and the N1/2 S1/2 of Section 17, Township 39 South, Range 9 E.W.M., Klamath County, Oregon, more particularly described as follows:

Beginning at a monument (all monuments are 5/8 inch iron pins with Tru-Line Surveying plastic cap, unless otherwise noted) on the Northwesterly right-of-way line of the Southern Pacific Railroad, from which the corner common to Sections 8, 9, 16 and 17 bears N. 28° 47' 57" E. 3642.74 feet and also being the point of beginning of that Road Easement described in Volume M88 page 2525 Klamath County Deed records; thence N. 54° 46' 27" W., along said road easement 877.30 feet to a monument marking the end of said easement; thence N. 35° 13' 33" E. 30.00 feet to a monument; thence N. 26° 07' 00" W. 201.55 feet to a railroad spike driven into sandstone; thence N. 02° 51' 48" W. 323.68 feet to a "U" bolt on the West side of a willow tree; thence N. 02° 18' 49" W. 1119.07 feet to a railroad spike driven into the root on the West side of a willow tree; thence continuing N. 02° 18' 49" W. 25 feet, more or less, to the Mean High Water Line of Klamath River; thence Southwesterly, along said water line, to the Northwest corner of said Lot 8; thence Southerly to the SW 1/16 corner; thence Southeasterly, towards the South 1/4 corner, to a point on the Northwesterly right-of-way line of the Southern Pacific Railroad; thence along said right-of-way line to a point which bears S. 34° 35' 38" W. 300.00 feet from the point of beginning;

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thence N. 54° 46' 27" W. 198.00 feet; thence N. 34° 35' 38" E. 270.00 feet; thence S. 54° 46' 27" E. 198.00 feet to a point on said railroad right-of-way line; thence N. 34° 35' 38" E. 30.00 feet to the point of beginning, containing 108 acres, more or less, and with bearings based on a solar observation.

Subject to an Easement, including the terms and provisions thereof, recorded February 23, 1988 in volume M88 page 2525, Deed records of Klamath County, Oregon.

The easement described herein shall run with the land and shall be for the benefit and use of the Grantees, their heirs, executives, administrators and assigns. The real property benefited by this easement is described as real property located in Klamath County, Oregon:

A tract of land situated in Government Lots 6,7,8 and 9 of Section 8, the SW1/4SW1/4 of Section 9 and in Government Lots 2, 3, 4, 8 and 9 of Section 17, Township 39 south, Range 9 E.W.M., Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the Section line 1025.5 feet North (by deed) of the corner common to Sections 8, 9, 16 and 17; thence S. 54° 05' E. (by deed) 930 feet, more or less, to a point on the Northwesterly right-of-way line of the Southern Pacific Railroad; thence S. 34° 35' 38" W., along said right-of-way line, 569 feet to a point on the line common to Sections 9 and 16; thence Westerly to the corner common to Sections 8, 9, 16 and 17; thence Southerly, along the line common to Sections 16 and 17 to its intersection with said Northwesterly right-of-way line; thence S. 34° 35' 38" W.; along said right-of-way line to a monument (monuments are a 5/8 inch iron pin with Tru-Line Surveying plastic cap) that bears S. 28° 47' 57" W. 3642.74 feet from the corner common to said Sections 8, 9, 16 and 17 and being the point of beginning of Parcel 1 of Major Land Partition 43-87 and that Road Easement described in Deed Volume M88 page 2525, Klamath County Deed Records; thence N. 54° 46' 27" W., along said road easement, 230.00 feet to a monument; thence N. 20° 59' 21" E. 901.22 feet to a monument; thence N. 29° 02' 57" E. 567.71 feet to a monument; thence N. 01° 04' 57" E. 1142.28 feet to a monument marking the point of



beginning of Parcel 2 of Major Land Partition 43-87 from which said common Section corner bears N. 66o 19' 58" E. 1444.16 feet; thence continuing N. 01o 04' 57" E. 65 feet, more or less, to the Mean High Water Line of the Klamath River; thence Northerly, along said water line 2760 feet, more or less, to a point that bears N. 54o 05' W. (by deed) from the point of beginning; thence S. 54o 05' E. 1720 feet, more or less, to the point of beginning, containing 105 acres, more or less, with bearings based on a solar observation, unless otherwise noted.

Subject to an Easement, including the terms and provisions thereof, recorded February 23, 1988 in volume M88 page 2525, Deed records of Klamath County, Oregon.

Grantees shall have the right to enter upon the property of the Grantors to repair, maintain, construct and reconstruct the current ditch running across the Grantors property from the BLM ditch eventually onto the property of the Grantees. Additionally the Grantees shall have the right to enter upon the property of the Grantors to repair, maintain, construct and reconstruct any related structures or equipment including but not limited to the irrigation pump and pumphouse located upon the Grantors property. Grantees and Grantors shall share in the expense, repair, maintenance and reconstruction and/or replacement of the ditch, pump and pumphouse to the extent of their percentage of use of the structures and/or equipment, taking into consideration the percentage of use by third parties as well.

Dated: 4-25, 1988.

GARY E. GRIFFITH  
KAREN GRIFFITH

STATE OF OREGON )  
 ) : SS.  
County of Klamath )

Personally appeared the above named Gary E. Griffith and Karen Griffith, husband and wife, and acknowledge the foregoing instrument to be their voluntary act and deed.

Judith G. Sullivan  
NOTARY PUBLIC FOR OREGON  
My Commission expires: 4/27/90

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of James Uerlings, Attorney  
of April A.D. 1988 at 9:11 o'clock A M., and duly recorded in Vol. M88  
of Deeds on Page 6563.

FEE \$15.00

Evelyn Biehn County Clerk  
By *[Signature]*