

Aspen 88510

EASEMENT FOR RESERVOIR,
PIPELINE and ACCESS ROAD

THIS AGREEMENT made this 23 day of March, 1988, between KENNETH DUNCAN and EVELYN DUNCAN, husband and wife, of P.O. Box 91, City of Malin, County of Klamath, State of Oregon, herein referred to as Grantor, whether one or more, and LOREN LOVENESS and ELSIE LOVENESS, husband and wife, and LOYAL LOVENESS and MILDRED LOVENESS, husband and wife, of HC-62, Box 21-A, City of Malin, County of Klamath, State of Oregon, herein referred to as Grantee, whether one or more.

W I T N E S S E T H :

SECTION ONE

PROPERTY INCLUDED

In consideration of the mutual benefits to accrue and the sum of TEN (\$10.00) DOLLARS, receipt of which is hereby acknowledged, Grantor hereby grants, sells, and conveys to Grantee, and Grantee's successors and assigns, perpetual and exclusive easement and right-of-way for the purposes of constructing, operating, inspecting, laying, maintaining, repairing, replacing, substituting, relocating, and removing a water reservoir, pipeline, and access road at a location and on a route to be selected by Grantee, upon, in, over, and through the lands of the Grantor described in Exhibit "A" attached hereto and, by this reference, made a part hereof, which lands are situate in the County of Klamath, State of Oregon.

SECTION TWO

TERM

The rights herein granted shall be possessed and enjoyed by Grantee, Grantee's successors and assigns, so long as the reservoir, pipeline and access road, and any appurtenances constructed pursuant thereto, shall be maintained and operated by Grantee or Grantee's successors or assigns.

SECTION THREE

ADDITIONAL RIGHTS OF GRANTEE

Grantee or Grantee's successors or assigns shall have the right of ingress and egress to and from the premises for any and all purposes necessary or convenient to the exercise by Grantee of the rights granted herein. Grantee shall have the right to install, maintain, replace, and repair any fences deemed necessary in order to protect the reservoir, pipeline and access road; however, any such fences shall not be so placed as to exceed the area defined in Exhibit "A" attached hereto.

SECTION FOUR

RIGHTS OF GRANTOR

Grantor reserves the right to use and enjoyment of the premises, including a non-exclusive right to the use of any access road constructed by Grantee, to the fullest possible extent without unreasonable interference with the exercise by Grantee of the rights granted herein. Grantor shall have no recreational or other rights in or to the reservoir without the written permission of Grantee. At the time of construction of the reservoir, Grantee shall provide Grantor with a one-inch (1") pipe for stock water beginning in the lower portion of the reservoir extending outside of the fenced portion of the reservoir to Grantor's stock water trough, which trough is to be provided by Grantor. Grantor will have the right to stock water anytime there is water in the reservoir and shall use all reasonable efforts to minimize waste or run-off from the water trough. All future repairs, maintenance, upkeep and/or replacement of the stock water line shall be the sole responsibility of the Grantor.

SECTION FIVE

SURFACE DAMAGE

Grantee shall have the right to run any pipeline on the surface of the ground or to bury any such pipeline, at Grantee's option. In the event Grantee opts to bury any pipeline, such pipeline shall be buried at a depth that is sufficient to avoid any interference with farming operations of Grantor. Grantee shall construct the reservoir, pipeline and access road in such a manner as to minimize any damage to the surface of the land which results from or as a consequence of such construction.

SECTION SIX

INDEMNIFICATION OF GRANTOR

Grantee shall indemnify Grantor, Grantor's agents, successors, and assigns, for all liability cost and expense for loss of or damage to property and for injuries or deaths of persons arising or resulting from the installation, maintenance, presence, use, operation, or removal of Grantee's reservoir, pipeline and access road.

Indemnification hereunder is limited to acts or omissions of the Grantee, Grantee's agents, successors, or assigns.

SECTION SEVEN

INDEMNIFICATION OF GRANTEE

Grantor shall indemnify and hold Grantee harmless from any and all claims of whatever nature arising out of Grantor's, or Grantor's agents, invitees, successors, or assigns, use of the access road, or any unauthorized use of the reservoir or property which is occupied by the Grantee, pursuant to the provisions of this easement.

SECTION EIGHT

ASSIGNMENTS

The rights granted herein shall be assignable together or separately, and are specifically intended to benefit and be appurtenant to Grantee's real property described in Exhibit "B" attached hereto and, by this reference, made a part hereof.

SECTION NINE

DEFAULT BY GRANTEE

This easement, and all rights of Grantee hereunder, shall at the option of Grantor terminate on the failure by Grantee to remedy any default in the performance of any term or condition of this instrument within 120 days after service of written notice of such breach.

SECTION TEN

WARRANTY OF TITLE

Grantor covenants that they are the owners of the premises and have the right, title, and capacity to grant the rights granted herein.

SECTION ELEVEN

EFFECT OF AGREEMENT

This agreement shall be binding upon the heirs, legal representatives, successors, and assigns of the parties hereto.

SECTION TWELVE

ATTORNEY FEES and COSTS

That in the event Grantor or Grantee shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this easement, including any suit for rescission, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including, but not limited to, costs incurred in searching records, the cost of title reports, surveyors' reports, foreclosure reports, and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any nonjudicial action including the giving by Grantor to Grantee of any notices necessitated by Grantee's failure to comply with any of the terms of this easement. Any such judgment shall be a personal judgment against the Grantee and shall be in addition to any other rights of the Grantor hereunder.

IN WITNESS WHEREOF, the parties have executed this agreement at Mahin, Oregon March 27th, 1988, on the day and year first above written.

GRANTORS:

Bernard H. H. H. H.
Evelyn R. Huncan

GRANTEES:

John Loveness
Evelyn Loveness
Loyal Loveness
Mildred Loveness

STATE OF OREGON)

County of Klamath)

ss.

March 23rd, 1988

Personally appeared the above-named KENNETH DUNCAN and EVELYN DUNCAN, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

Vaclav Kalina
 Notary Public for Oregon
 My Commission Expires: June 1st, 1990

STATE OF OREGON)

County of Klamath)

ss.

April 22, 1988

Personally appeared the above-named LOREN LOVENESS and ELSIE LOVENESS, husband and wife, and LOYAL LOVENESS and MILDRED LOVENESS, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

BEFORE ME:

Vaclav Kalina
 Notary Public for Oregon
 My Commission Expires: June 1st, 1990

EXHIBIT "A"
Grantor Property
Description

10466

FORM No. 211-OUTCLAIM DEED (Revised in 1964)

65943

OUTCLAIM DEED

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KNOW ALL MEN BY THESE PRESENTS, That Leslie Lequieu and Laverne Lequieu, husband and wife, hereinafter called grantor, for the consideration hereinafter stated, does hereby remise, release and quitclaim unto Evelyn R. Duncan, husband and wife, hereinafter called grantee, and unto grantee's heirs, successors and assigns all of the grantor's right, title and interest in that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in any-wise appertaining, situated in the County of Klamath, State of Oregon, described as follows, to-wit:

S&S&S&S&S of Section 27 Township 40 South, Range 12 East, Willamette Meridian, saving and excepting therefrom the West 30 feet thereof.

4012 X9300

That the same unto the said grantor and grantee's heirs, successors and assigns forever. The consideration stated for this transfer, stated in terms of dollars, is: none. The consideration and consideration consists of a includes other property or value given or promised which is consideration indicate which. (If the contract between the symbols, it is applicable, would be deleted. See O.S. 91039.) In construing this deed and when the contract requires, the singular includes the plural and all grammatical changes shall be made to make the provisions hereof apply equally to corporations and to individuals. In Witness Whereof, the grantor has executed this instrument this 19 day of April, 1979. A corporate grantor it has caused its name to be signed and sealed by its officers, duly authorized thereto by and of its board of directors.

STATE OF OREGON
County of Klamath
April 19, 1979
Personally appeared the above named
Leslie Lequieu and Laverne Lequieu

STATE OF OREGON, County of Klamath
Personally appeared _____ and _____ who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of _____ a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in the hall of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed. Before me:

(OFFICIAL SEAL)
My commission expires: _____
My Comm. Expires: 6/1/81

(SEAL)
Notary Public for Oregon
My commission expires: _____

Leslie & Laverne Lequieu
Clear Lake Road
Tulelake, California 96134
Keaneth & Evelyn Duncan
P.O. Box 91
Mallin, Oregon 97632
Lequieu & Lequieu, Inc.
4005 South Sixth Street
Klamath Falls, Oregon 97601
P.O. Box 91
Mallin, Oregon 97632

STATE OF OREGON
County of Klamath
I certify that the within instrument was received for record on the _____ day of _____, 1979, at _____ o'clock, _____ M., and recorded in book _____ on page _____ of the _____ file/roll number _____ Record of Deeds of said county. Witness my hand and seal of County aforesaid.
Notary Public for Oregon
My commission expires: _____

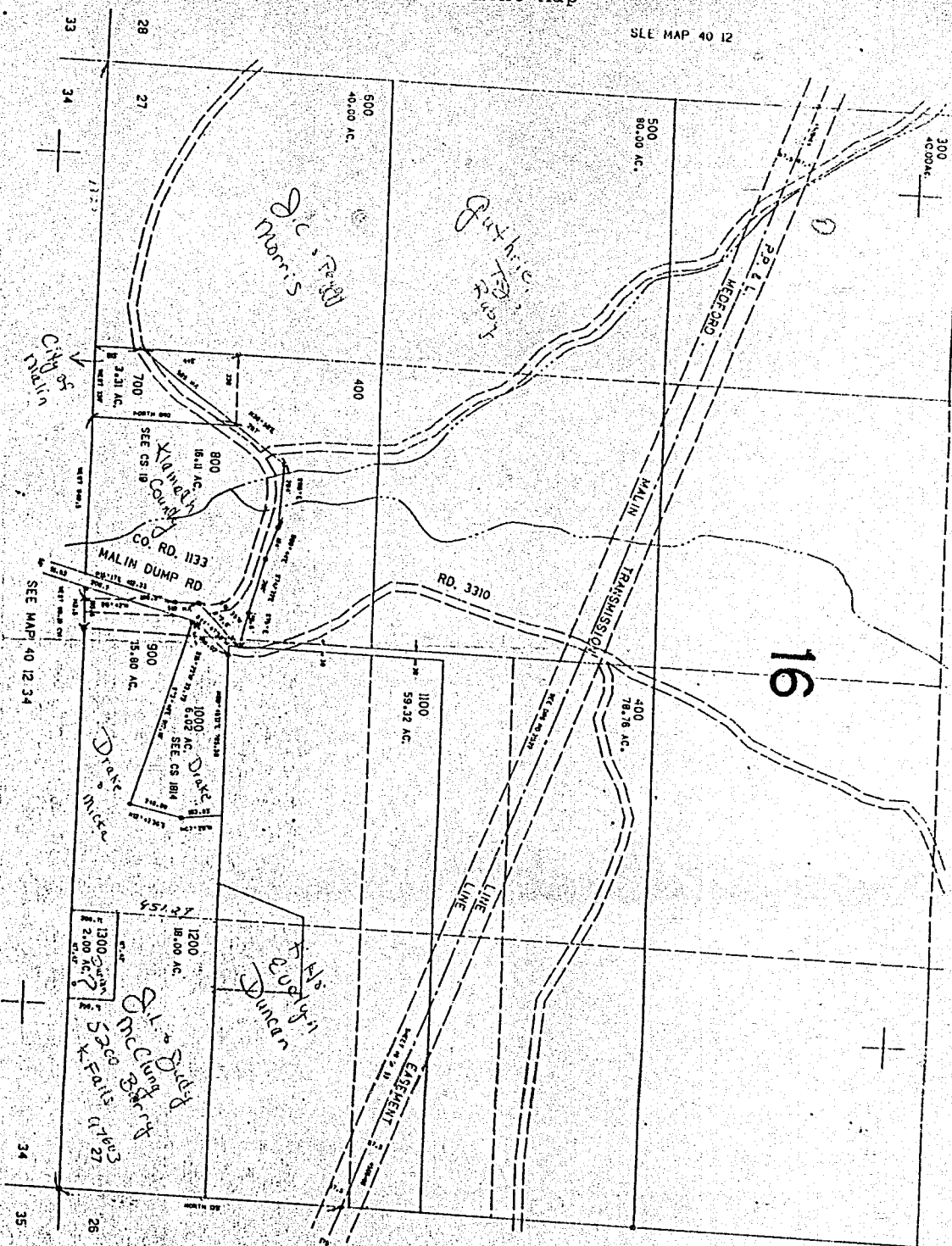
EXHIBIT "A" (Cont.)

Easement Description

The following described real property situated in Klamath County, Oregon:

A tract of land situated in the ($N\frac{1}{2}$ $S\frac{1}{2}$ $SE\frac{1}{4}$) of Section 27, Township 40 South, Range 12 East of the Willamette Meridian.

Beginning at the Southwest corner of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 27: thence East 320 feet; thence North 400 feet; thence West 354.1 feet; thence South 20 degrees West 425.78 feet, more or less,; thence East along the South line of ($N\frac{1}{2}$ $S\frac{1}{2}$ $SE\frac{1}{4}$) 180 feet more or less, to the point of beginning.



SEE MAP 40 12

1
EXHIBIT "A" (cont.)

Aerial Photo
Easement Outline

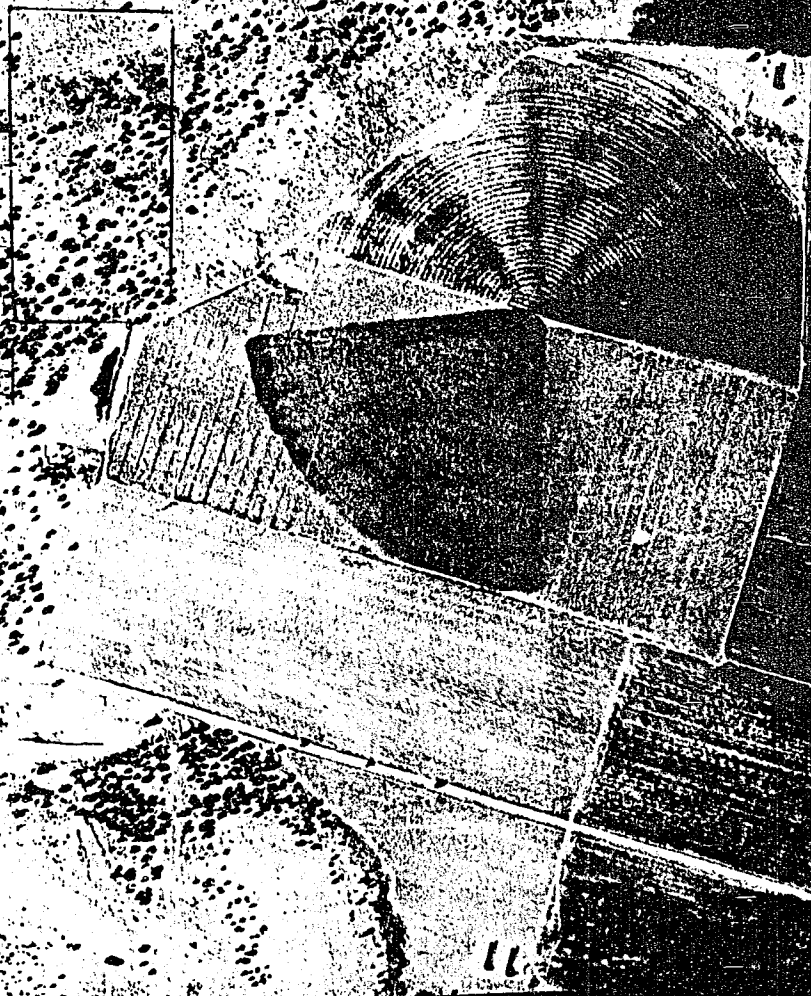


EXHIBIT "B"
GRANTEE PROPERTY

DESCRIPTION

PARCEL 1

The $S\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ of Section 27, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County Oregon, EXCEPTING THEREFROM THE FOLLOWING:

Beginning at a 5/8 inch iron rod on the East right of way line of County Road No. 1133 from which the $\frac{1}{4}$ corner common to Sections 27 and 34 bears South $06^{\circ} 44' 09''$ East a distance of 499.10 feet; thence South $73^{\circ} 46' 00''$ East a distance of 912.18 feet to a 5/8" iron rod; thence North $12^{\circ} 43' 30''$ East 248.89 feet to a 5/8" iron rod; thence North $07^{\circ} 29' 00''$ West a distance of 183.03 feet to a 5/8" iron rod; thence South $89^{\circ} 45' 13''$ West a distance of 765.39 feet to a 5/8" iron rod on the East right of way line of County Road No. 1133; thence along the East right of way line of said road, South $44^{\circ} 47' 30''$ West a distance of 188.02 feet to a 5/8" iron rod; thence South $15^{\circ} 23' 00''$ West a distance of 33.73 feet to the point of beginning, all lying in Section 27, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 2

Beginning at the Southeast corner of the $SE\frac{1}{4}SW\frac{1}{4}$ of Section 27, Township 40 South, Range 12 East of the Willamette Meridian; Klamath County, Oregon, thence West along the South line of said $SE\frac{1}{4}SW\frac{1}{4}$ a distance of 2.4 chains more or less, to the center line of the old county road running Northerly from Malin to the McFall Ranch; thence North along said road a distance of 7.5 chains; thence approximately North $43^{\circ} 50'$ East along said road a distance of 3.47 chains to the Northwest corner of the $S\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ of said Section 27; thence South along the West line of said $S\frac{1}{2}SW\frac{1}{4}SE\frac{1}{4}$ a distance of 10 chains, more or less, to the point of beginning; being that portion of the $SE\frac{1}{4}SW\frac{1}{4}$ of Section 27, Township 40 South, Range 12 East of the Willamette Meridian, lying East of said road, EXCEPTING THEREFROM THE FOLLOWING:

Beginning at a 5/8 inch iron rod on the East right of way line of County Road No. 1133 from which the $\frac{1}{4}$ corner common to Sections 27 and 34 bears South $06^{\circ} 44' 09''$ East a distance of 499.10 feet; thence South $73^{\circ} 46' 00''$ East a distance of 912.18 feet to a 5/8" iron rod; thence North $12^{\circ} 43' 30''$ East 248.89 feet to a 5/8" iron rod; thence North $07^{\circ} 29' 00''$ West a distance of 183.03 feet to a 5/8" iron rod; thence South $89^{\circ} 45' 13''$ West a distance of 765.39 feet to a 5/8" iron rod on the East right of way line of County Road No. 1133; thence along the East right of way line of said road, South $44^{\circ} 47' 30''$ West a distance of 188.02 feet to a 5/8" iron rod; thence South $15^{\circ} 23' 00''$ West a distance of 33.73 feet to the point of beginning, all lying in Section 27, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 3

The $W\frac{1}{2}NE\frac{1}{4}$, the $SE\frac{1}{4}NE\frac{1}{4}$ and the $NW\frac{1}{4}SE\frac{1}{4}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL 4

Beginning at the Northwest corner of the $NE\frac{1}{4}NE\frac{1}{4}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon; thence South

(continued)

PARCEL 4 (continued)

along the West line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$, a distance of 20 chains, more or less to the Southwest corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence East along the South line of said NE $\frac{1}{4}$ NE $\frac{1}{4}$, a distance of 20 chains, more or less, to the Southeast corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence approximately North 45° West a distance of 28.28 chains more or less to the point of beginning; being the Southwest one-half of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian.

PARCEL 5

Beginning at the Northwest corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, thence East along the North line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$, a distance of 20 chains, more or less to the Northeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence South along the East line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$, a distance of 20 chains, more or less, to the Southeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence West, along the South line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$, a distance of 8.5 chains, more or less, to the Northeasterly right of way line of the high line canal of the Shasta View Irrigation District; thence Northwesterly along said right of way line, to the West line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence North a distance of 6.5 chains, more or less, to the point of beginning; being that portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian, lying Northeasterly from the said high line canal.

PARCEL 6

That portion of the W $\frac{1}{2}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, lying East of the East right of way line of the county road as now located and North of the Northerly line of the high line canal of the Shasta View Irrigation District.

PARCEL 7

Beginning at an iron pin on the South line of Section 27, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, which lies West along the South line of Section 27, a distance of 143.5 feet from the quarter corner common to Sections 27 and 34, Township 40 South, Range 12 East of the Willamette Meridian, and running thence; continuing West along the County line of Section 27, a distance of 52 feet to a point; thence North 15° 17' East along the East line of the relocated county road, a distance of 206.5 feet to a point on the Westerly right of way line of the Old County Road; thence South 0° 42' West a distance of 199.21 feet, more or less to the point of beginning, said tract being in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 27, Township 40 South, Range 12 East of the Willamette Meridian.

PARCEL 8

That portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 34, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Commencing at the Northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence East along the North line to the Northeast corner of said quarter section; thence South along the East line of said quarter section to the Southeast corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$; thence in a straight line Northwesterly to the Northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, the true point of beginning; and SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, Township 40 South, Range 12 East of the Willamette Meridian.

PARCEL 9

A tract of land situated in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 27, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows: Beginning at the Southwest corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$; thence North along the West line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 208.71 feet; thence East parallel to the South line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 417.42 feet; thence South parallel to the West line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 208.71 feet; thence West along the South line of said SE $\frac{1}{4}$ SE $\frac{1}{4}$ a distance of 417.42 feet to the point of beginning.

TOGETHER WITH an easement for the joint use with Grantors for roadway purposes over and across the South 20 feet of the excepted portion of Parcel 2 above; provided that such easement shall not include 10 feet on each side of the existing well.

Return:

Glenn H. Munsell

Howard & Munsell, P. C.

P.O. Box 640

Ashland, OR 97520

STATE OF OREGON,
County of Klamath ss.

Filed for record at request of:

Aspen Title Co.

on this 5th day of July A.D., 19 88
at 3:20 o'clock P. M. and duly recorded
in Vol. M88 of Deeds Page 10461

Evelyn Biehn County Clerk

By Ameline Munsell

Fee, \$63.00

Deputy.