

49815

## EASEMENT AGREEMENT

This Agreement is made this 17th day of August, 1992, by and between Don Johnston & Son, a Partnership, hereincalled "Johnston," and Richard Rowe, hereincalled "Rowes."

## WITNESSETH

1. Johnston owns certain real property located on the Keno Highway between Klamath Falls, Oregon and Keno, Oregon, which said property is more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

2. Richard Rowe and his wife, Cynthia Rowe, own certain real property which adjoins the property owned by Johnston and which is more particularly described on Exhibit B, attached hereto and incorporated herein by this reference.

3. Johnston does hereby grant and convey unto Richard Rowe and Cynthia Rowe, and their heirs at law, the nonexclusive right to cross over that certain red cinder road located along the easterly boundary of Johnston's said land for the purpose of ingress and egress to the Rowe property.

4. This grant of access is personal to Richard Rowe, Cynthia Rowe, and their heirs at law. Further, this grant of access is limited in use to the Rowes and their guests, employees and invitees for the purpose of access to residences which the Rowes intend to construct on their said land for their use and that of their heirs and employees.

5. In consideration for this grant of access by Johnston, the Rowes covenant and agree as follows:

A. That they shall pay to Johnston, the total sum of \$25,000, which sum shall be paid in five installments of not less than \$5,000 each. The first such installment shall be paid upon the execution of this agreement, receipt of which is hereby acknowledged by Johnston. The subsequent installments shall be paid on or before the 30th day of June, in the years 1993, 1994, 1995 and 1996. Said payments shall not earn interest.

B. The Rowes acknowledge that the cinder road is currently in a condition which provides reasonable access to the Rowes' property. Johnston shall have no duty, responsibility or obligation for the maintenance or plowing of the road.

C. The Rowes shall not expand the width of the road or make any changes to the road that would expand it beyond its current location.

D. The Rowes acknowledge that the subject road crosses Johnston's farm and grazing land, that at both ends of the road where it crosses the Johnston's property line, there are currently gates constructed and in use. The Rowes covenant and agree to respect said gates, to promptly close each gate after passing through it and to cross through said gates in a manner that will not allow Johnston's livestock to escape from Johnston's land through the gate. The Rowes may improve the gates by replacing them with other gates so long as the new gates are of equal or better quality than the existing gates and so long as the new gates will prevent livestock from escaping through them.

6. Johnston hereby reserves to itself, its successors and assigns, the unrestricted right to use the road for any purpose and to grant further rights of use to other people.

7. The Rowes shall not park, load, or unload any vehicle on the road other than in emergency conditions and shall not otherwise block Johnston's use of said road. Any necessary maintenance and repair shall be performed by the Rowes, promptly, diligently and in accordance with generally accepted road maintenance standards.


8. This easement shall remain in effect so long as the Rowes or their heirs at law own the real property described on Exhibit B, and for so long as the Rowes, and their heirs at law, are not in default of the provisions of this agreement. Upon the sale by the Rowes, or their heirs at law, of the real property described on Exhibit B, this easement shall automatically terminate and the Rowes, their successors and assigns, promise and covenant to promptly deliver to Johnston, its successors and assigns, a quitclaim deed releasing all interest in this easement.

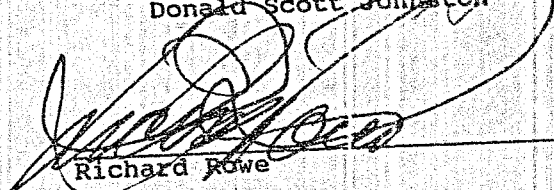
9. In the event of any litigation arising under this agreement, the prevailing party shall recover from the losing party, the prevailing party's reasonable attorney's fees at trial or on appeal as adjudged by the trial or appellate court.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first herein written.

DON JOHNSTON & SON:

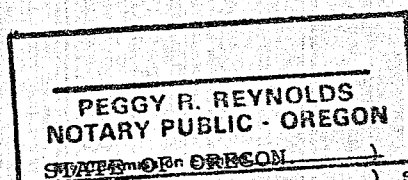
By

  
Donald Scott Johnston

  
Richard Rowe

STATE OF OREGON                    )  
   ) ss  
 County of Klamath                )

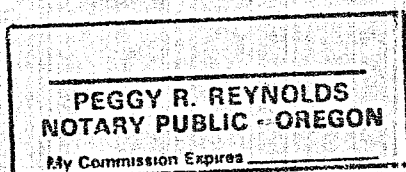
August 17, 1992, personally appeared the above named Donald Scott Johnston, for Don Johnston & Son, a Partnership, who acknowledged the foregoing instrument to be his voluntary act and deed. BEFORE ME:



Peggy R. Reynolds  
 Notary Public for Oregon  
 My commission expires: 12-5-92

STATE OF OREGON                    )  
   ) ss  
 County of Klamath                )

August 17, 1992, personally appeared the above named Richard Rowe, who acknowledged the foregoing instrument to be his voluntary act and deed. BEFORE ME:



Peggy R. Reynolds  
 Notary Public for Oregon  
 My commission expires: 12-5-92

After recording return to: William M. Canong, 635 Main Street, Klamath Falls, Oregon 97601.



**EXHIBIT A****DESCRIPTION****PARCEL 1**

The SE $\frac{1}{4}$  and the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 30; The N $\frac{1}{2}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 31, The W $\frac{1}{2}$ SW $\frac{1}{4}$  of Section 29, all that portion of the NW $\frac{1}{4}$  of Section 32 lying Northerly and Westerly of the Greensprings Highway and Westerly of that parcel of land beginning at the intersection of a well-established fence line and the North line of SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 29 which point is approximately 368 feet West of the North-east corner of said SE $\frac{1}{4}$ SW $\frac{1}{4}$ ; thence West to an intersection with a line running parallel with and distant 206 feet measured at right angles Westerly from said fence line; thence Southeasterly along said line parallel with the fence line, 3520 feet, more or less, to the Northerly line of the State Highway; thence Northeasterly along the Northerly line of said Highway to an intersection with said fence line; thence Northwesterly along the fence line to the place of beginning, conveyed by Ralph A. Johnston et ux., to Erwin Heim et ux., by deed recorded on page 214 of Volume 245 of Deeds, Records of Klamath County, Oregon, also all that portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 29 lying Westerly of said parcel conveyed to Heims; all in Township 39 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

ALSO the following described portion of NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 32, described as follows: Beginning at the  $\frac{1}{4}$  section corner on the West line of said Section 32; thence South along the Section line 870 feet; thence East 879 feet, more or less, to the West line of the State Highway; thence Northerly along said line of Highway to a point which is 1100 feet East and 206 feet South of said  $\frac{1}{4}$  section corner; thence North 206 feet; to the North line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$ ; thence West along said line 1100 feet to the said  $\frac{1}{4}$  section corner.

**PARCEL 2**

All that portion of Section 32, Township 39 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, described as follows:

Beginning at a point on a line between Sections 31 and 32, which is 870 feet South of the  $\frac{1}{4}$  corner common to Sections 31 and 32; thence South along said Section line a distance of 97.56 feet, to the Northwest corner of the D. J. Puckett property; thence East 879 feet, more or less, to the West line of the right of way of Oregon State Highway No. 66; thence North along the West line of said right of way 97.56 feet; thence West 879 feet to the point of beginning.

EXCEPTING from the above described property portion conveyed to the United States government for canal and laterals by deed dated December 23, 1907, recorded December 24, 1907, on page 410 of Volume 23 of Deeds, Records of Klamath County, Oregon. ALSO EXCEPTING from the above described property the E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 29, Township 39 South, Range 8 East of the Willamette Meridian.

# EXHIBIT B LEGAL DESCRIPTION

The following described property situated in Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon:

Section 20: NE 1/4 of the SE 1/4; S1/2 of the SE 1/4.

Section 21: N 1/2 of the SW 1/4.

Section 28: SW 1/4 of the NW 1/4; NW 1/4 of the SW 1/4.

Section 29: NE 1/4; N 1/2 of the SE 1/4; E 1/2 of the NW 1/4; NE 1/4 of the SW 1/4; SW 1/4 of the NW 1/4.

ALSO beginning at the Northeast corner of the W 1/2 SE 1/4 SE 1/4 of Section 29; thence West along the North line of the W 1/2 SE 1/4 SE 1/4, 385 feet, more or less, to the Northeast corner of property conveyed to Walter V. Vincent, et ux, by deed recorded in Volume 192, page 269, Deed Records of Klamath County, Oregon, thence South along the East line of the said Vincent property to the North line of the Emmitt Ditch, thence East along the North line of said Emmitt Ditch to the East line of the W 1/2 SE 1/4 SE 1/4 of said Section 29 thence North along said East line to the point of beginning.

## TOGETHER WITH:

A. An easement created by instrument, subject to the terms and provisions thereof,  
Dated: August 23, 1991  
Recorded: September 11, 1991  
Volume: M91, page 18288, Microfilm Records of Klamath County, Oregon  
Grantor: Lesnick Development Co., Ltd.  
Grantee: Warren H. Buyers

RESERVING UNTO THE GRANTOR a perpetual, nonexclusive easement to use a strip of land, being the most Westerly 60 feet of the NE1/4 of Section 21, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon for roadway and utility purposes.

B. An easement for roadway purposes over the SE1/4 SE1/4 NW1/4 of Section 21, Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described in Volume M82, page 16370, Microfilm Records of Klamath County, Oregon, recorded September 15, 1981.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Wm. M. Ganong the 27th day  
of Aug. A.D., 19 92 at 9:05 o'clock A M., and duly recorded in Vol. M92  
of Deeds on Page 19482

Evelyn Biehn  
By Orville M. Millender County Clerk

FEE \$50.00