

61172

93 MAY 7 PM 3 23

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#0510 6th & Homedale  
Klamath Falls, OR  
4/19/93

Aspen Title #01038257

**EASEMENT OF RIGHT OF WAY FOR CANAL PURPOSES**  
(Albertson's)

THIS INDENTURE is made this 6th day of May, 1993, by ALBERTSON'S, INC., a Delaware corporation ("Grantor"), to ENTERPRISE IRRIGATION DISTRICT of Klamath County, Oregon ("Grantee").

WHEREAS, Grantor is the owner of an estate in fee simple situated in Klamath County, Oregon, more particularly described in Schedule I attached hereto and by this reference incorporated herein (the "Albertson's Property"); and

WHEREAS, Grantor has agreed to grant to Grantee an easement for canal purposes across that portion of the Albertson's Property more particularly described on Schedule II and illustrated on Exhibit "A" attached hereto and incorporated herein (the "Canal Tract").

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other value given, the parties hereby agree as follows:

1. Grantor and its successors in interest to the Albertson's Property grant, bargain, sell and convey to Grantee and its successors and assigns a nonexclusive, perpetual easement across the Canal Tract for the purpose of operating, maintaining, repairing and replacing a covered irrigation canal used for delivering water to the users thereof (the "Canal"), together with the right of ingress and egress by Grantee, its agents, employees, contractors, successors and assigns across the Canal Tract and such portions of the Albertson's Property as reasonably necessary to perform the acts necessary in the operation, maintenance, repair and replacement of the Canal. Grantee agrees to perform all work related to operating, repairing, maintaining or replacing the Canal in a manner which does not unreasonably interfere with Grantor's use of the Albertson's Property and to repair any damage to any improvements on the Canal Tract caused by Grantee's use of the rights granted herein. Grantee relinquishes any right to use, maintain or operate an open canal on the Canal Tract and agrees not to enlarge or relocate the Canal without the prior written approval of Grantor.
2. Grantor reserves for itself, its tenants and its successors in interest to the Albertson's Property, and the agents, employees, licensees and customers thereof, the perpetual right (i) to construct, maintain, repair, replace and utilize a driveway, roadway, parking lot and/or other improvements on the surface of the Canal Tract, and (ii) to construct, maintain, repair and replace utility lines and cables over, across and under the Canal Tract, each right being for all purposes connected with the use and enjoyment of the Albertson's Property; provided, however, that Grantor shall not be required to construct any such improvements or to keep the same in good repair. Grantor, its successors and assigns, shall repair any damage to the Canal caused by Grantor's use of the rights granted herein.
3. Each party agrees to indemnify, defend and hold harmless the other party from and against any and all liability, claims, damages, expenses (including reasonable attorneys' fees and reasonable attorneys' fees on appeal), judgments, proceedings and causes of action for injury to or death of any person or damage to or destruction of any property arising out of the performance or non-performance of any of the obligations of the indemnifying party herein, unless caused by the negligent or willful act or omission of the indemnified person, its agents, contractors or employees.

IN WITNESS WHEREOF, this Easement is executed the day and year first above written.

ALBERTSON'S, INC., a Delaware corporation

By *William H. Arnold*  
 William H. Arnold  
 Vice President, Real Estate Law

ENTERPRISE IRRIGATION DISTRICT of  
 Klamath Falls, Oregon

By *Don Russell*  
 Its Manager

STATE OF IDAHO )  
 ) ss.  
 County of Ada )

On this 3<sup>rd</sup> day of May, 1993, before me, *Anna Andrus*, a Notary Public in and for said State, personally appeared William H. Arnold, to me known to be Vice President, Real Estate Law of ALBERTSON'S, INC., the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

*Anna Andrus*  
 Notary Public for the State of Idaho  
 Residing at Boise, ID  
 My Commission Expires 4/5/99

STATE OF OREGON )  
 ) ss.  
 County of Klamath )

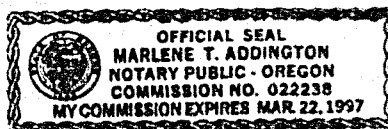
On this 6th day of May, 1993, before me, Marlene T. Addington, a Notary Public in and for said State, personally appeared Don Russell, known or identified to me to be the manager of ENTERPRISE IRRIGATION DISTRICT, the irrigation district that executed the within instrument, and the person who executed the instrument on behalf of said irrigation district, and acknowledged to me that such irrigation district executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

*Marlene T. Addington*  
 Notary Public for Oregon  
 My Commission Expires March 22, 1997

AFTER RECORDING, PLEASE RETURN TO:

Rita L. Berry  
 HAWLEY TROXELL ENNIS & HAWLEY  
 P.O. Box 1617  
 Boise, Idaho 83701



## LEGAL DESCRIPTION -- ALBERTSON'S PARCEL

A TRACT OF LAND SITUATED IN LOTS 1 THROUGH 8 OF BLOCK 1 AND LOTS 1, 2, 3, 8, AND 9 OF BLOCK 2 OF "BAILEY TRACTS No. 2", A DULY RECORDED SUBDIVISION, AND IN THE NE 1/4 SE 1/4 OF SECTION 2, T39S, R9EWM, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 BLOCK 1 OF SAID "BAILEY TRACTS No. 2", BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF SOUTH SIXTH STREET; THENCE N89°43'42"W, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 560.00 FEET TO THE NORTHWEST CORNER OF LOT 8 BLOCK 1 OF SAID "BAILEY TRACTS No. 2"; THENCE S00°17'12"W 266.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8; THENCE S83°33'31"W 77.36 FEET TO THE SOUTHWEST CORNER OF LOT 9 BLOCK 1 OF SAID "BAILEY TRACTS No. 2"; BEING ON THE EASTERLY RIGHT OF WAY LINE OF HOMEDALE ROAD; THENCE S00°17'12"W, ALONG SAID EASTERLY RIGHT OF WAY LINE, 35.24 FEET TO A POINT ON THE WEST LINE OF LOT 9 BLOCK 2 OF SAID "BAILEY TRACTS No. 2"; THENCE N83°33'31"E 96.45 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 8 OF SAID BLOCK 2; THENCE, ALONG THE NORTHERLY LINE OF SAID BLOCK 2, S66°29'10"E 57.79 FEET, S59°19'49"E 81.02 FEET, S59°57'23"E 80.55 FEET, S66°30'44"E 76.10 FEET, AND S82°23'40"E 70.49 FEET TO THE NORTHWEST CORNER OF LOT 3 BLOCK 2 OF SAID "BAILEY TRACTS No. 2"; THENCE N88°54'32"E 442.90 FEET TO A POINT FROM WHICH THE SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED VOLUME M90 PAGE 2677 OF THE KLAMATH COUNTY DEED RECORDS BEARS N00°00'26"E 176.64 FEET AND THE EAST 1/4 CORNER OF SAID SECTION 2 BEARS N42°38'05"E 637.81 FEET; THENCE N00°00'26"E 431.28 FEET TO THE NORTHWEST CORNER OF SAID TRACT OF LAND DESCRIBED IN DEED VOLUME M90 PAGE 2677, BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF SOUTH SIXTH STREET; THENCE N89°43'42"W 232.41 FEET TO THE POINT OF BEGINNING, CONTAINING 7.535 ACRES, MORE OR LESS.



Owners  
Erwin A. Rider, L.S. W.R.E.  
Dennis A. Ensor, L.S. W.R.E.

10253

**TRU (SURVEYING) LINE**

## SCHEDULE II

LEGAL DESCRIPTION  
OF  
ENTERPRISE IRRIGATION DISTRICT EASEMENT THROUGH ALBERTSON'S PARCEL

AN EASEMENT LYING BETWEEN A PORTION OF BLOCK 1 AND 2 OF "BAILEY TRACTS No. 2", A DULY RECORDED SUBDIVISION AND IN THE NE1/4 SE1/4 OF SECTION 2, T39S, R9EW, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHWEST CORNER OF SAID BLOCK 2, BRING ON THE EASTERLY RIGHT OF WAY LINE OF HOMEDALE ROAD; THENCE, ALONG THE NORTHERLY LINE OF SAID BLOCK 2, N83°46'55"E 79.55 FEET, S66°29'10"E 76.01 FEET, S59°19'49"E 81.02 FEET, S59°57'23"E 80.55 FEET, S66°30'44"E 76.10 FEET, AND S82°23'40"E 70.49 FEET TO THE NORTHEAST CORNER OF LOT 4 BLOCK 2 THENCE N88°54'32"E 112.90 FEET TO THE SOUTHEAST CORNER OF THE PROPOSED ALBERTSON'S PARCEL; THENCE N00°00'26"E, ALONG THE EAST LINE OF THE PROPOSED ALBERTSON'S PARCEL, 16.00 FEET; THENCE S88°54'32"W 394.97 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 3 OF SAID BLOCK 2; THENCE N77°26'58"W 49.34 FEET TO THE SOUTHEAST CORNER OF LOT 4 OF SAID BLOCK 1; THENCE, ALONG THE SOUTHERLY LINE OF SAID BLOCK 1, N81°18'07"W 70.92 FEET, N64°04'04"W 78.06 FEET, N60°07'34"W 80.87 FEET, N61°43'22"W 79.77 FEET, N68°57'29"W 74.95 FEET, AND S83°33'31"W 77.36 FEET TO THE SOUTHWEST CORNER OF SAID BLOCK 1, BEING ON THE EASTERLY RIGHT OF WAY LINE OF HOMEDALE ROAD; THENCE S00°17'12"W 25.76 FEET TO THE POINT OF BEGINNING.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Dennis A. Ensor*  
DENNIS A. ENSOR

O.L.S. 2442

*Dennis A. Ensor*  
OREGON  
JULY 25, 1990  
DENNIS A. ENSOR  
2442

EXPIRES 12-31-93

10254

KLAMATH FALLS / LAKEVIEW HIGHWAY  
( SO. SIXTH ST. )

HOMEDALE ROAD

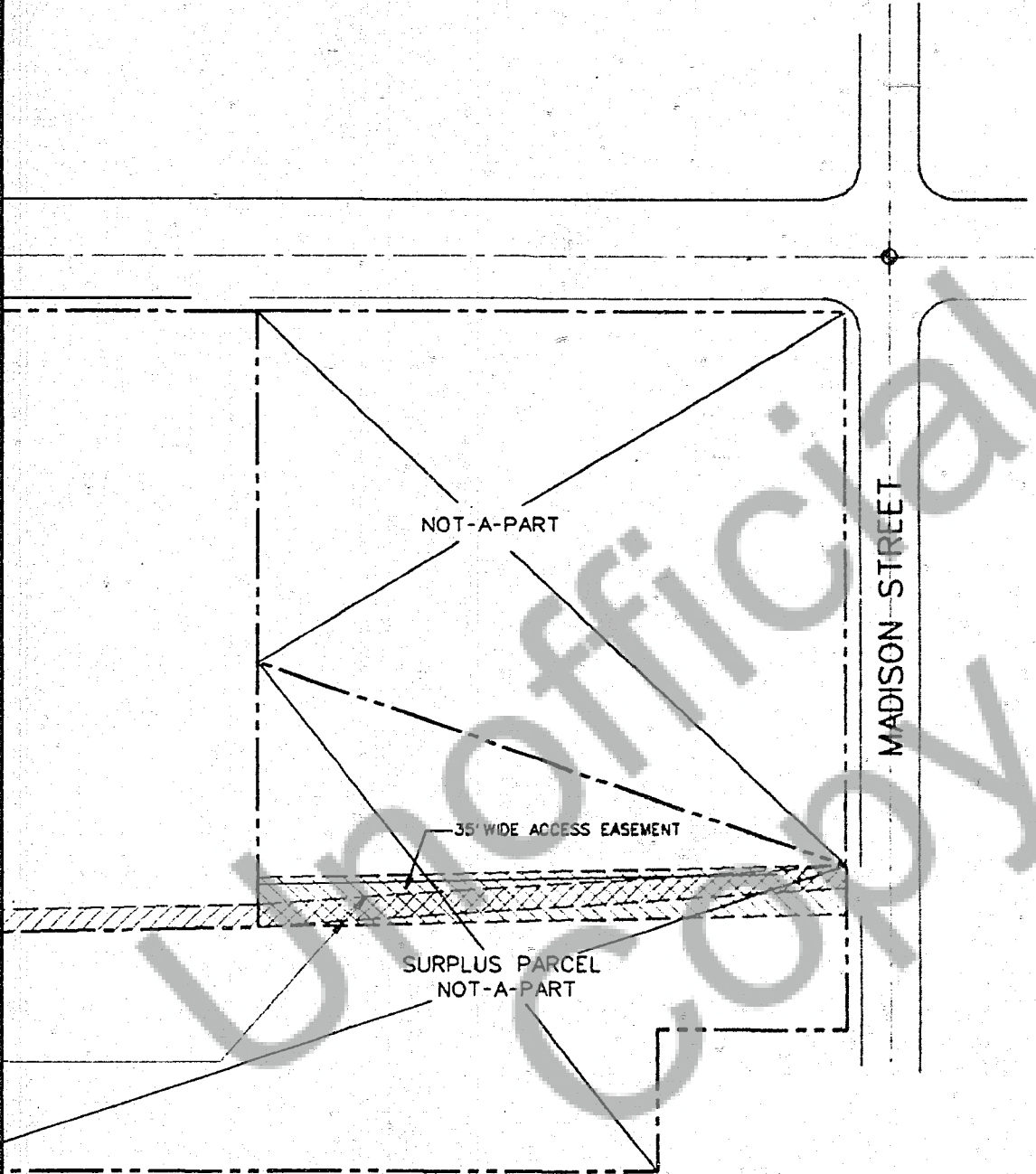
NOT  
A  
PART

SIGN  
EASEMENT

SIGN VISIBILITY EASEMENT

ENTERPRISE  
IRRIGATION CANAL  
EASEMENT

10255



NOT-A-PART

35' WIDE ACCESS EASEMENT

SURPLUS PARCEL  
NOT-A-PART

MADISON STREET

STATE OF OREGON,  
County of Klamath ss.

Filed for record at request of:

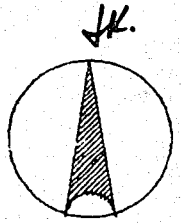
Aspen Title Co

on this 7th day of May A.D. 19 93  
at 3:23 o'clock P.M. and duly recorded  
in Vol. M93 of Deeds Page 10250

Evelyn Biehn County Clerk

By Doreen Mullender  
Deputy.

Fee, \$55.00



NORTH

SCALE: 1"=100'-0"

REVISIONS

ALBERTSONS NO. 577

S.E.C. HOMEDALE RD. & SO. SIXTH STREET KLAMATH FALLS, OR

SEE PLAT 10255 FOR DEEDS 10250



DATE  
4-29-93

EASEMENT  
LOCATION  
PLAN

1

577 321