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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF KLAMATH

RICHARD BREWER and KATHRYN BREWER. Husband and Wife,

FEB 12 P1:31

Plaintiffs.

LEE SUKRAW.

Defendant.

Case No. 9404086 CV

**AMENDED JUDGMENT** 

THIS MATTER came regularly before the court on Plaintiff's complaint for Declaratory Relief requesting that the court interpret certain provisions of an easement recorded on May 10. 1967, in the mortgage records of Klamath County, Oregon in Volume M-67 at page 3469, concerning the water supply to the following described real property:

"A piece or parcel of land situate in Lot 1 of Section 28, Twp. 40 South, Range 9, E.W.M. more particularly described as follows:

Beginning at an iron pin marking the quarter section corner common to Sections 21 and 28, Twp 40 South, Range 9 E.W.M.; thence

South 0'06 1/4' West along the North-South center line of said section 28, 885.1 feet to an iron pin; thence

North 89'47 1/4' West 689.01 feet to a point; thence

North parallel to said North-South center line to a point on the North line of Section 28; thence

East along the North line of Section 28 to the point of beginning."

A trial was held on April 27, 1995 before the Honorable Roxanne Osborne, Circuit Court Judge, in which both parties presented testimony and evidence. A letter opinion was issued by Judge Osborne on May 8, 1995. Following this letter opinion both parties, through

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Osborne responded to by letter opinion dated June 2, 1995. Based upon the court records and files herein, the evidence presented by both parties, and the letter opinions issued in this matter:

## IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- 1. That the Plaintiffs have a valid easement as against Defendants property giving Plaintiff's the right and privilege to obtain water from a well located on Defendant's property. The well identified in the subject easement has been supplanted by a second well approximately 25 feet from the original well location and for all intents and purposes the easement is modified to include this second well as the applicable well contained in said easement. Any and all rights that Plaintiff's had in the original well now exist in this nearby second well.
- 2. The terms and conditions of the original easement shall remain in effect unless specifically modified by this Judgment and shall include, that the Plaintiffs shall be responsible for the repair and maintenance of the pump attached to the subject well and any water pipes providing water from the well to Plaintiffs' property. Plaintiff's shall have the right of ingress and egress to repair and/or maintain the pump and their water lines. Defendant shall be responsible for providing and maintaining the electric power to pump the well. Additionally, Defendant shall be responsible for the well, including all repair and maintenance concerning the well.
- The parties shall execute any documents, including a new easement to this second well if necessary, to effect the provisions contained in this Judgment.

DATED this 25 day of Qon, 1996.

Roxanne Osborne, Circuit Court Judge

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