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AGREEMENT FOR EASEMENT AND PUMP MAINTENANCE

This Agreement is made this 20<sup>th</sup> day of November, 1997 between Robert James McElley and Elizabeth Irene McElley, hereinafter referred to as "Grantor", and Bernard L. Simonsen and Rhea E. Simonsen, Co-Trustees of the Simonsen Family Trust, hereinafter referred to as "Grantee".

1) Grantor is the owner of property in Klamath County described as Parcel #1 of Final Partition #63-93, hereinafter "Parcel 1".

2) Grantee is the owner of property in Klamath County described in Exhibit A attached hereto, hereinafter referred to as "Grantee's Property".

3) There is an irrigation pump, owned by Grantee, located on the Pine Grove Irrigation District ditch in the southeasterly portion of Parcel #1. It is the intent of the parties hereto that said properties of the Grantor and the Grantee, shall have equal rights to withdraw water using the pump on said ditch, and that the owners of each said property shall pay a portion of the cost of maintaining, repairing and replacing the pump. It is further the intent of the parties that Grantor grant an easement to Grantee across Grantor's land for access to the pump and to locate and maintain Grantees water delivery system.

Therefore, for good and valuable consideration, receipt of which is hereby acknowledged, and subject to the conditions set forth in this instrument:

1. Grantee hereby grants to Grantor the right to use the above-described pump to irrigate the land of Grantor. Grantor conveys to Grantee the right to pump water from said ditch and to convey such water from the pump to Grantee's above-described property by pipe;

2. Grantor hereby grants to Grantee an easement across the westerly 30 feet of the Grantor's Parcel #1 beginning at the northerly boundary of the Pine Grove Irrigation District ditch, thence southerly to the southerly boundary of Parcel 1. Said easement shall be for the installation, maintenance and repair of Grantee's water delivery system for water to be delivered to the Grantee's property. Said easement shall include reasonable and adequate working area surrounding the pump and ditch for operation, maintenance, and repairs. Said easement shall be perpetual and run with the ownership of the land described above. Grantee's Property is the dominant property to which this easement is appurtenant.

3. Grantees, their heirs, grantees and assigns, shall be solely responsible for the maintenance, repair and replacement of the pipe

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which delivers water from the pump to Grantee's property and other equipment which serve their said property. Grantee shall repair at their sole expense, any damage done to Grantor's said property in such maintenance, repair and replacement.

4. Grantor, Grantor's successors, grantees and assigns, shall be solely responsible for the maintenance, repair and replacement of the pipes and equipment which serve Grantor's property and shall repair at Grantor's sole expense, any damage done to Grantee's water delivery system caused by Grantor's negligence.

5. Grantor shall contribute 20% of the costs of electricity, and of all future costs of maintenance, repair, replacement and improvement of the pump. Should acreage irrigated from this pump change significantly the parties shall adjust the percentage of the Grantor's responsibility to a percentage which is proportionate to the number of acres each party irrigates from this pump. Grantor and Grantee agree to pay assessments from the Pine Grove Irrigation District proportioned on the acreage assessed by the Pine Grove Irrigation District.

6. The parties interest in the water from said ditch is limited to supplying water for irrigation use on the land of Grantor and Grantee as permitted by the Oregon Water Resources Department, Pine Grove Irrigation District and applicable local and state laws.

7. In the event that any repair or replacement of the pump, the parties expressly agree to cooperate fully in allowing said repair or replacement to be made as soon as the necessary equipment, equipment operator and supplies can be obtained to make such repair or replacement. The parties further agree to pay for or to arrange for the payment of their respective share of the costs of said repair or replacement as soon as is reasonably possible.

8. In the event that any owner of either of said parcels of land shall at any time hereafter institute any suit, action or proceeding to enforce any of the covenants or agreements herein contained and/or for damages for the breach of the same, the courts, including Appellate Courts, shall award the prevailing party in such a suit, action or proceeding such sums as it may adjudge reasonable for said disbursements provided by law.

9. This Agreement shall bind and inure to each of said parcels of land and be appurtenant thereto and run therewith.

10. For purposes of this agreement the term "Pump" shall be defined as the pump, and any necessary panels, electrical systems or wires, platforms or supporting structures and any necessary component required for the operation and integrity of the pump. The term "Pump" shall not include any portion of either parties water delivery system which shall include each parties valve.

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A tract of land situated in the E 1/2 E 1/2 of Section 7, the SW 1/4 SW 1/4 of Section 8, the NW 1/4 NW 1/4 of Section 17, and the SE 1/4 NE 1/4 of Section 18, all in Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at a 5/8 inch iron rebar marking the South 1/16 corner common to said Sections 7 and 8; thence West 299.19 feet; thence along the arc of a curve to the right (radius = 188.70 feet and central angle = 100 degrees 12' 14") 330.02 feet to a point 45 feet Easterly of an existing drain; thence paralleling said drain as follows: along the arc of a curve to the left (radius point bears North 79 degrees 47' 46" West 165.00 feet and central angle = 64 degrees 29' 22") 185.72 feet, North 54 degrees 17' 08" West 70.42 feet, along the arc of a curve to the right (radius = 105.00 feet and central angle = 33 degrees 10' 29") 60.30 feet, North 21 degrees 06' 39" West 31.90 feet, along the arc of a curve to the right (radius = 125.00 feet and central angle = 21 degrees 50' 41") 47.66 feet, North 00 degrees 44' 02" East 328.19 feet; thence leaving said drain along the arc of a curve to the left (radius = 289.41 feet and central angle = 90 degrees 33' 15") 457.40 feet; thence North 89 degrees 49' 13" West 345.45 feet to the Easterly right of way line of South Road; thence along said Easterly right of way line South 00 degrees 10' 47" West 30.00 feet to a point from which the C=E 1/16 corner of said Section 7 bears North 89 degrees 49' 13" West 30.00 feet; thence South 89 degrees 49' 13" East 345.45 feet; thence along the arc of a curve to the right (radius = 259.41 feet and central angle = 90 degrees 33' 15") 409.99 feet to a point 15 feet Easterly of the said drain; thence paralleling said drain as follows: South 00 degrees 44' 02" West 328.19 feet, along the arc of a curve to the left (radius = 155.00 feet and central angle = 21 degrees 50' 41") 59.10 feet, South 21 degrees 06' 39" East 31.90 feet, along the arc of a curve to the left (radius = 135.00 feet and central angle = 33 degrees 10' 29") 78.17 feet, South 54 degrees 17' 08" East 70.42 feet, along the arc of a curve to the right (radius = 135.00 feet and central angle = 64 degrees 29' 22") 151.95 feet; thence North 79 degrees 47' 46" West 15 feet to the centerline of said existing drain; thence along the centerline of said drain Southwesterly to a point on the West line of the SE 1/4 SE 1/4 of said Section 7; thence along said West line South 00 degrees 29' 26" West 439 feet, more or less, to the Northerly right of way line of the O.C. & E. Railroad; thence Southeasterly along said right of way line 1773 feet, more or less, to the Easterly bank of an existing drain; thence Northerly along said Easterly bank, passing through a point 304 feet East of the Southeast corner of said Section 7, to a point on the South line of the N 1/2 SW 1/4 SW 1/4 of said Section 8; thence Easterly along said South line 1019.7 feet, more or less, to the Southeast corner of said N 1/2 SW 1/4 SW 1/4; thence Northerly to the Northeast corner of the SW 1/4 SW 1/4 of said Section 8; thence Westerly to the point of beginning.

EXCEPTING a strip of land lying between the West line of the E 1/2 SE 1/4 of Section 7, Township 39 South, Range 10 East of the Willamette Meridian, and the existing fence line with the said E 1/2 SE 1/4, said strip of land being more particularly described as follows:

Beginning at a point marked by a 5/8 inch iron pin with plastic cap on the West line of said E 1/2 SE 1/4, said point being South 00 degrees 29' 26" West 1827.79 feet from the C=E 1/16 corner of said Section 7; thence South 00 degrees 29' 26" West 408.11 feet to a 5/8 inch iron pin with plastic cap on the Northerly right of way line of the O.C. & E. Railroad; thence South 65 degrees 52' 30" East, along said right of way line, 34.9 feet, more or less, to the said existing fence line; thence Northerly along said existing fence line, 422 feet, more or less, to the centerline of an existing drain ditch; thence Westerly 27 feet, more or less, to the point of beginning, with bearings based on recorded Minor Land Partition 49-83.

EXHIBIT "A"

STATE OF OREGON, COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title & Escrow the 21st day of November A.D. 19 97 at 11:11 o'clock A. M., and duly recorded in Vol. 197 of Deeds on Page 38218.  
By Bernetha G. Letsch, County Clerk

FEE \$45.00

By Kathleen Koss