

DECLARATION OF EASEMENT AND COVENANTS AND CONDITIONS FOR
ACCESS RESPONSIBILITY AND EASEMENT MAINTENANCE FOR THE
MILLER HILL WEST HOMEOWNERS ASSOCIATION

THE UNDERSIGNED, DONALD R. GRUENER, THE RECORD OWNER OF THE
REAL PROPERTY SITUATED IN THE SW1/4 SW1/4 OF SECTION 28, T39S,
R9EWM, KLAMATH COUNTY, OREGON MORE PARTICULARLY DESCRIBED AS
FOLLOWS.

PARCEL 1 OF "MAJOR LAND PARTITION 78-93".

DOES HEREBY MAKE THE FOLLOWING DECLARATION OF EASEMENT AND
COVENANTS AND CONDITIONS FOR ACCESS RESPONSIBILITY AND EASEMENT
MAINTENANCE FOR THE MILLER HILL WEST HOMEOWNERS ASSOCIATION
COVERING THE ABOVE DESCRIBED REAL PROPERTY, SPECIFYING THAT THE
DECLARATION SHALL CONSTITUTE COVENANTS TO RUN WITH ALL OF THE
LAND, AND SHALL BE BINDING ON ALL PERSONS CLAIMING UNDER THEM AND
THAT THESE COVENANTS AND CONDITIONS SHALL BE FOR THE BENEFIT OF
AND BE A LIMITATION UPON ALL FUTURE OWNERS OF SAID REAL PROPERTY.

A. ACCEPTANCE AND DEDICATION OF EASEMENT

1. ACCEPTANCE OF BUREAU OF RECLAMATION ACCESS. THE
UNDERSIGNED, FOR THE USE AND BENEFIT OF THE ABOVE DESCRIBED REAL
PROPERTY AND FOR THE USE AND BENEFIT OF THE FUTURE OWNERS OF THE
ABOVE DESCRIBED REAL PROPERTY, HEREBY AGREES TO ACCEPT THE
FOLLOWING DESCRIBED ACCESS OVER THE UNITED STATES BUREAU OF
RECLAMATION ("USBR") C-4-K LATERAL DRAIN. TO WIT:

AN ACCESS EASEMENT OVER A PORTION OF THE USBR C-4-K LATERAL
DRAIN SITUATED IN THE SW1/4 SW1/4 OF SECTION 28, TOWNSHIP 39
SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH
COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WESTERLY RIGHT OF WAY LINE OF THE
C-4-K LATERAL, FROM WHICH THE SOUTHWEST CORNER OF SAID
SECTION 28, BEARS S88°17'47"W 30.01 FEET AND
S00°01'40"W 525.48; THENCE, ON THE ARC OF A CURVE TO
THE RIGHT ALONG SAID RIGHT OF WAY, (CENTRAL ANGLE
EQUALS 37°50'20" AND THE RADIUS POINT BEARS N72°09'22"E
151.42 FEET, 30.54 FEET; THENCE N88°17'47"E 30.12 FEET,
TO THE EASTERLY RIGHT OF WAY LINE OF SAID LATERAL;
THENCE, ON THE ARC OF A CURVE TO LEFT ALONG SAID RIGHT
OF WAY, (CENTRAL ANGLE EQUALS 14°33'56" AND THE RADIUS
POINT BEARS 82°34'40" 121.42 FEET) 30.87 FEET; THENCE
S88°17'47"W 31.56 FEET TO THE POINT OF BEGINNING.

UNDER THE TERMS AND CONDITIONS AS REQUIRED BY THE USBR AND TO BE
A PORTION OF MILLER HILL WEST EASEMENT AND TO BE GOVERNED BY THE
MILLER HILL WEST HOMEOWNERS ASSOCIATION AS SET FORTH IN THIS
DECLARATION.

2. DEDICATION OF ACCESS EASEMENT. THE UNDERSIGNED, FOR THE
USE AND BENEFIT OF THE ABOVE DESCRIBED REAL PROPERTY AND FOR THE
USE AND BENEFIT OF THE FUTURE OWNERS OF THE ABOVE DESCRIBED REAL

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PROPERTY, HEREBY DEDICATES THE FOLLOWING DESCRIBED EASEMENT
HEREINAFTER CALLED MILLER HILL WEST, TO WIT:

THE WESTERLY 60 FEET OF PARCEL 2 OF LAND PARTITION 52-96
UNDER THE TERMS AND CONDITIONS TO BE GOVERNED BY THE MILLER HILL
WEST HOMEOWNERS ASSOCIATION AS SET FORTH IN THIS DECLARATION.

B. ORGANIZATION OF MILLER HILL WEST HOMEOWNERS
ASSOCIATION

3. NATURE OF ORGANIZATION AND POWERS. THE MILLER HILL WEST
HOMEOWNERS ASSOCIATION SHALL BE AN UNINCORPORATED ASSOCIATION AS
PROVIDED IN ORS 94.625 AND SHALL HAVE THE POWERS OF A HOMEOWNERS
ASSOCIATION AS PROVIDED IN ORS 94.630. THE MILLER HILL WEST
HOMEOWNERS ASSOCIATION SHALL ACT EXCLUSIVELY THROUGH ITS AGENT AS
SET FORTH IN THIS DECLARATION.

4. MEMBERSHIP. MEMBERS OF THE ASSOCIATION SHALL CONSIST OF
LEGAL OWNERS OR CONTRACT PURCHASERS, OR THEIR SUCCESSORS, OF EACH
PARCEL OF PROPERTY CONTAINED IN THE REAL PROPERTY WHICH IS THE
SUBJECT OF THIS DECLARATION. WHEN TWO OR MORE INDIVIDUALS ARE
IN JOINT OWNERSHIP OF A PARCEL THEY SHALL CONSTITUTE A SINGLE
MEMBER. MEMBERSHIP IN THE ASSOCIATION MAY BE TERMINATED ONLY
AFTER DIVESTMENT BY THE MEMBER OF ALL INTEREST IN THE PROPERTY
SERVED BY MILLER HILL WEST AND BY PAYMENT OF ALL ACCRUED
ASSESSMENTS.

5. DESIGNATION OF AGENT. DONALD R. GRUENER, 1081 JOE
WRIGHT ROAD, KLAMATH FALLS, OR 97603, IS DESIGNATED AGENT FOR THE
ASSOCIATION FOR SERVICE OF PROCESS, BILLS OR OTHER NOTICES ON
BEHALF OF ITS MEMBERS. THE DESIGNATED AGENT MAY DELEGATE POWER
AND DUTIES HEREIN TO SUCH PERSON AS HE SHALL SELECT. THE
DESIGNATED AGENT SHALL BE CHANGED OR REPLACED ONLY WITH HIS OR
HER CONSENT AND BY A MAJORITY VOTE OF THE MEMBERS, WHICH VOTING
MAY BE BY MAIL, BUT THE CHANGE OR REPLACEMENT SHALL BE EFFECTIVE
ONLY UPON THIRTY (30) DAYS NOTICE DELIVERED PERSONALLY OR BY
CERTIFIED MAIL TO THE USBR OFFICE IN KLAMATH FALLS, OREGON.

6. MEMBERSHIP LIST. IN JANUARY OF EACH YEAR THE
ASSOCIATION SHALL PREPARE A LIST OF THE NAMES AND ADDRESSES OF
ITS MEMBERS SHOWING PARCELS OF PROPERTY OWNED BY EACH INDIVIDUAL
MEMBER. THIS LIST SHALL BE PROVIDED TO THE USBR OFFICE IN
KLAMATH FALLS, OREGON ON OR BEFORE MARCH 1 OF EACH YEAR.

C. DUTIES OF HOMEOWNERS

7. LIABILITY. EACH MEMBER OF THE ASSOCIATION SHALL BE
PERSONALLY LIABLE TO THE ASSOCIATION FOR HIS OR HER PRORATA SHARE
OF FEES, EXPENSES AND ASSESSMENT. THE ASSOCIATION SHALL HAVE THE
AUTHORITY AND RESPONSIBILITY TO COLLECT THE ASSESSMENTS IN AN
EQUITABLE FASHION AND TO FILE A LIEN AGAINST THE PROPERTY OF A
DELINQUENT MEMBER AND TO FORECLOSE THE LIEN IN ACCORDANCE WITH
THE LAWS OF THE STATE OF OREGON. THESE REMEDIES SHALL BE IN
ADDITION TO AND NOT IN LIEU OF ANY REMEDY WHICH MIGHT BE
AVAILABLE TO THE ASSOCIATION. NOT WITHSTANDING THE DELINQUENCY

OF ITS MEMBERS, THE ASSOCIATION SHALL BE OBLIGATED TO PERFORM THE REQUIRED OBLIGATIONS TO THE USBR.

8. ASSESSMENTS. EACH MEMBER WHO OWNS A PARTICULAR PARCEL OF PROPERTY SHALL PAY AN ANNUAL FEE ON OR BEFORE JANUARY 1 OF EACH YEAR, COMMENCING ON JANUARY 1, 1999. EACH MEMBER SHALL PAY AN ANNUAL FEE OF A MINIMUM OF \$100.00 PER PARCEL ON AN ANNUAL BASIS. IN THE EVENT THE ANNUAL FEE IS INSUFFICIENT TO COVER THE EXPENSES OF THE ASSOCIATION UNDER THIS DECLARATION, INCLUDING ANY COURT COSTS OR ATTORNEY FEES NECESSARILY INCURRED, THE EXCESS SHALL BE ASSESSED TO THE MEMBERS ON A PRORATA BASIS. THE FUNDS SHALL BE PAID TO THE ASSOCIATION'S AGENT, AS DESIGNATED, WHO SHALL MAINTAIN THE FUNDS IN A BANK ACCOUNT IN THE NAME OF THE ASSOCIATION.

9. OBLIGATION TO UNITED STATES BUREAU OF RECLAMATION. THE PRESENT AND FUTURE MEMBERS OF THE ASSOCIATION DO AND WILL BENEFIT FROM MILLER HILL WEST, INCLUDING THE SEGMENT GRANTED TO THE ASSOCIATION BY THE USBR. THE ASSOCIATION AND ITS MEMBERS AGREE TO MAINTAIN THE SEGMENT GRANTED TO THEM BY THE USBR AND TO MAINTAIN THE SAME IN ACCORDANCE WITH USBR REQUIREMENTS. THE SEGMENT GRANTED TO THE ASSOCIATION BY THE USBR SHALL BE USED FOR INGRESS AND EGRESS PURPOSES ONLY AND SHALL NOT BE OBSTRUCTED BY ANY MEMBER FOR ANY PURPOSE UNLESS PRIOR WRITTEN CONSENT FOR THE AUTHORIZED USE BY THE USBR. EACH MEMBER HEREIN, BOTH PRESENT AND FUTURE, DOES HEREBY FOR HIMSELF, HIS HEIRS, SUCCESSORS AND ASSIGNS, AGREE TO BE RESPONSIBLE FOR THE PERFORMANCE OF ALL OF THE COVENANTS, CONDITIONS AND REQUIREMENTS OF ANY EASEMENT AGREEMENTS NECESSARY TO BE ENTERED INTO WITH KLAMATH COUNTY, OREGON OR, IN THE ALTERNATIVE, TO MAINTAIN AND MEET THE RESPONSIBILITIES OF EASEMENT MAINTENANCE AS SET BY KLAMATH COUNTY, OREGON.

10. HOLD HARMLESS. EACH MEMBERS AGREES TO INDEMNIFY AND HOLD HARMLESS THE OTHER MEMBERS, THE USBR AND KLAMATH COUNTY, OREGON FROM AND AGAINST ANY AND ALL LAW SUITS, CLAIMS, DEMANDS OR OTHER LIABILITIES WHATSOEVER ARISING OUT OF THEIR OWN USE OR USE BY THEIR INVITEES, GUESTS, AGENTS OR EMPLOYEES OF MILLER HILL WEST. EACH MEMBER ASSUMES ALL RISKS ARISING OUT OF THEIR INDIVIDUAL USE OF MILLER HILL WEST.

D. MISCELLANEOUS PROVISIONS

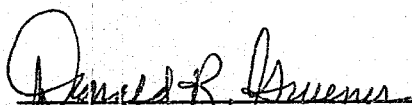
11. ATTORNEY FEES. IN THE EVENT ANY SUIT OR ACTION, OR APPEAL THEREFROM, IS BROUGHT TO ENFORCE ANY RIGHT OR REMEDY ARISING FROM THIS DECLARATION, OR ANY PORTION THEREOF, THE LOSING PARTY OR PARTIES SHALL PAY TO THE PREVAILING PARTY OR PARTIES, REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.

12. ENFORCEMENT OF LIENS. IN THE EVENT OF THE FAILURE OF ANY PROPERTY OWNER TO PAY ANY ASSESSMENT AS IT BECOMES DUE, THE DESIGNATED AGENT MAY, ON BEHALF OF THE ASSOCIATION, FILE A LIEN AT ANY TIME THEREAFTER BY FILING A NOTICE THEREOF WITH THE RECORDING OFFICER OF KLAMATH COUNTY, OREGON, BY SUBMITTING A STATEMENT IN WRITING, VERIFIED BY THE OATH OF THE DESIGNATED AGENT AND CONTAINING (A) A TRUE STATEMENT OF THE LIEN CLAIMANT'S

DEMAND; (B) THE NAME OF THE OWNER OR REPUTED OWNER, IF KNOWN, OF THE LAND TO BE CHARGED WITH THE LIEN; AND (C) A DESCRIPTION OF THE PROPERTY TO BE CHARGED WITH THE LIEN SUFFICIENT FOR IDENTIFICATION. A LIEN FILED UNDER THIS SECTION SHALL BE FORECLOSED IN THE MANNER PROVIDED IN ORS CHAPTER 88.

13. NO AMENDMENT. THIS DECLARATION, EXCEPT AS EXPRESSLY PROVIDED HEREIN, MAY NOT BE AMENDED OR MODIFIED EXCEPT BY UNANIMOUS VOTE OF THE MEMBERS, NOR MAY IT BE AMENDED OR MODIFIED WITHOUT THE WRITTEN CONSENT OF THE USBR.

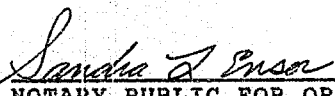
14. RECORDING. THIS DECLARATION SHALL BE EXECUTED BY THE UNDERSIGNED, ACKNOWLEDGED AND RECORDED IN THE REAL PROPERTY RECORDS FOR KLAMATH COUNTY, OREGON.


DONALD R. GRUENER

STATE OF OREGON)
) ss.
COUNTY OF KLAMATH)

ON THIS 20TH DAY OF MARCH, 1998, PERSONALLY APPEARED DONALD R. GRUENER, WHO, BEING SWORN, ACKNOWLEDGED THE FOREGOING TO BE HIS VOLUNTARY ACT. BEFORE ME:




NOTARY PUBLIC FOR OREGON
MY COMMISSION EXPIRES: 12/8/2000

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Tru-Line the 20th day
of March A.D., 19 98 at 1:26 o'clock P.M., and duly recorded in Vol. M98,
of Deeds on Page 8944.
Return: Tru Line
FEE \$25.00 2333 Summers Lane By Bernetha G. Letsch
2.00 copy Klamath Falls, OR 97603 Bernetha G. Letsch, County Clerk