

66419

98 SEP 17 A9:29

MTC 45794-KR Vol. 1198 Page 34141
EASEMENT

15th THIS AGREEMENT, the effective date of which is the day of September, 1998, between AVON B. CUMMINS and MARY JO CUMMINS, husband and wife, as to parcel 1, and MARY JO CUMMINS, as to parcel 2, hereinafter called "Grantors," and RON McVAY and BARBARA McVAY, husband and wife, hereinafter called "Grantees."

RECITALS

1. WHEREAS, Grantors own the real property described as follows:

Parcel 1 and Parcel 2 of Major Land Partition 67-84, situated in the NW 1/4 SE 1/4 and the SE 1/4 SE 1/4 of Section 4, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

hereinafter referred to as "Grantors' parcel," and

2. WHEREAS, Grantees are purchasing from Grantors the following described real property:

The NE 1/4 NE 1/4, of Section 9, Township 41 South, Range 12, East of the Willamette Meridian Klamath County, Oregon, lying West of the Malin Irrigation District High Line Canal,

hereinafter referred to as "Grantee's parcel."

GRANT OF EASEMENT

3. In consideration of the purchase by Grantee's of the above described real property, the Grantors hereby grant a non-exclusive easement across Grantor's property for the benefit of Grantees. Said easement consists of the Easterly 60 feet of Parcel 1 and Parcel 2 of Klamath County Major Land Partition 67-84, adjacent to and parallel with the Westerly line of the Malin Irrigation District High Line Canal. Said easement shall be for ingress and egress, and for location of utilities.

UPON RECORDING RETURN ORIGINAL TO:
SCOTT MAC ARTHUR, ATTORNEY
280 MAIN STREET
KLAMATH FALLS OR 97601

45

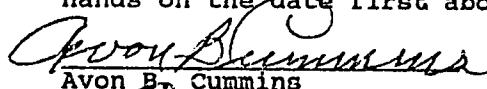
4. This easement is not exclusive to Grantees; Grantors may grant rights that are included in the above described easement to third parties provided that such grants do not interfere with Grantee's permitted uses as stated herein. Grantees may not use this property for any illegal purpose, or for any use prohibited by state, federal or local laws, ordinances and regulations.

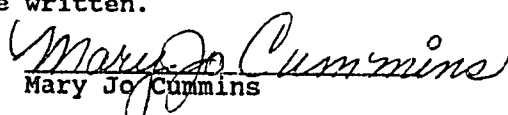
5. All expenses of maintenance, repair and replacement of said easement shall be paid among the parties who use such easement on a prorated basis, where the volume and size of vehicles shall be taken into account. In other words, if one party is using the road easement 50% of the time and causing 50% of the wear and tear on the road, then such party's share of the maintenance costs shall be 50%. In the event that such prorate of maintenance is not agreed to by the parties, such amounts shall be determined by arbitration where each party appoints one arbitrator and those arbitrators choose another. Those arbitrators shall decide the resolution of said dispute, and the parties shall be bound thereby. The costs of arbitration shall be borne equally by the parties.

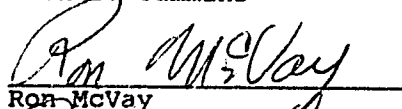
6. This easement shall run with the land. It is recognized that said easements burdens Grantors' parcel and that the benefit and appurtenance shall be to Grantees' parcel.

7. If suit or action is instituted to enforce any of the provisions of this Agreement, the party prevailing therein shall be entitled to recover from the other such sum as the Court may adjudge reasonable as attorney's fees therein, including any appeal thereof. This agreement was drafted at the direction of the parties by Scott D. MacArthur, attorney who represents Grantees; Grantors have had opportunity to obtain separate legal counsel. This document shall not be construed for or against either party by reason of said attorney drafting this document.

IN WITNESS WHEREOF, the Parties hereto have set their hands on the date first above written.


Avon B. Cummins


Mary Jo Cummins


Ron McVay


Barbara A. McVay

34143



STATE OF OREGON]
] ss.
 County of Klamath]

The foregoing instrument was acknowledged before me
 this 15th day of September, 1998, by Avon B. Cummins, Mary Jo Cummins & Ronald C. McVay and . (RR) (RC)

Kristi L. Redd
 Notary Public for Oregon
 My Commission expires: 11/16/99

STATE OF OREGON]
] ss.
 County of Klamath]

The foregoing instrument was acknowledged before me
 this 16th day of September, 1998, by Grand Barbara A. McVay and .



Kristi L. Redd
 Notary Public for Oregon
 My Commission expires: 11/16/99

34144

PARCEL 1:

A parcel of land situated in the NW1/4 SE1/4 of Section 4, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the East-West centerline of said Section 4, from which the center 1/4 corner bears South 89 degrees 30' 16" West 691.52 feet; thence North 89 degrees 30' 16" East 221.20 feet to a 5/8 inch rebar with plastic cap on the approximate Westerly line of the Malin Irrigation District highline ditch; thence Southerly along the said Westerly line generally along the following courses: South 21 degrees 10' 03" East 137.18 feet, South 29 degrees 49' 46" East 193.29 feet, South 04 degrees 31' 59" West 114.20 feet, South 03 degrees 55' 35" West 109.06 feet, South 05 degrees 20' 46" East 105.13 feet and South 16 degrees 47' 56" East 46.34 feet to a 5/8 inch rebar with plastic cap; thence North 89 degrees 56' 19" West 374.29 feet; thence North 00 degrees 03' 41" East 665.00 feet to the point of beginning, with bearings based on recorded survey No. 3651 as recorded in the office of the Klamath County Surveyor.

PARCEL 2:

A parcel of land situated in the NW1/4 SE1/4 and the SE1/4 SE1/4 of Section 4, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the C1/4 corner of said Section 4; thence North 89 degrees 30' 16" East 691.52 feet; thence South 00 degrees 03' 41" West 665.00 feet to the True Point of Beginning of this description; thence continuing South 00 degrees 03' 41" West 664.26 feet to the South line of the said NW1/4 SE1/4; thence Easterly along said South line to the Northwest corner of the SE1/4 SE1/4 of said Section 4; thence Southerly to the Southwest corner of said SE1/4 SE1/4; thence Easterly along the South line of said SE1/4 SE1/4 to a point on the Westerly line of the Malin Irrigation District highline ditch; thence Northwesterly along the Westerly line of said ditch to a 5/8 inch rebar with plastic cap from which the True Point of Beginning bears North 89 degrees 56' 19" West 374.29 feet; thence North 89 degrees 56' 19" West 374.29 feet to the True Point of Beginning, with bearings based on recorded survey No. 3651 in the office of the Klamath County Surveyor.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Amerititle the 17th day
of September A.D., 19 98 at 9:29 o'clock A. M., and duly recorded in Vol. M98,
of Deeds on Page 34141.

FEE \$45.00

By Bernetha G. Leisch, County Clerk
Kathleen Ross