

## EASEMENT AGREEMENT

This Agreement is made as of the 9 day of August, 1999, by and between Ronald C. Wegener and Sherry R. Wegener, herein called "Wegeners", and Wilbur A. Walker and Marie L. Walker, herein called "Walkers".

## RECITALS.

- A. The Wegeners own the following described property:

A parcel of land situated in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 10, Township 39 South, Range 10 East of the Willamette Meridian, more particularly described as follows:

Beginning at a 5/8" iron pin marking the Southeast corner of said SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ ; thence N. 00 degrees 10' 53" W. along the East line of said SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , a distance of 641.07 feet to the Southeast corner of parcel conveyed to Stephen F. Pope by Deed recorded in Volume M-80, page 7185, records of Klamath County, Oregon; thence N. 89 degrees 53' W., a distance of 251.74 feet (283.62' by Deed reference) to the Southwest corner of said parcel; thence N. 00 degrees 07' E., a distance of 59.52 feet to the Southeast corner of a parcel described in instrument recorded in Volume M-76, page 15480; thence N. 89 degrees 53' W., a distance of 705.64 feet to a 5/8" iron pin, thence S. 00 degrees 10' 50" E., a distance of 694.7 feet to a 5/8" iron pin on the South line of said SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ ; thence S. 89 degrees 31' 46" E. along said South line, a distance of 957.12 feet, more or less to the point of beginning; said parcel containing 15.00 acres.

- B. The Walkers own the following described real property:

A parcel of land situated in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 10, Township 39 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron pin at the Southwest corner of said parcel, from which the  $\frac{1}{4}$  corner on the West boundary of said Section 10 bears S. 26 degrees 20' 17" W., a distance of 771.62 feet; thence N. 00 degrees 10' 53" W., a distance of 285.60 feet to a 5/8" iron pin; thence N. 20 degrees 09' 27" W., a distance of 380.41 feet more or less to a 5/8" iron pin on the North boundary of said SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 10; thence S. 89 degrees 31' 22" E., along said north boundary, a distance of 294.63 feet to a 5/8" iron pin; thence, leaving said north boundary, S. 28 degrees 06' 06" E., a distance of 340.42 feet to a 5/8" iron pin; thence S. 28 degrees 29' 08" E., a distance of 124.51 feet to a 5/8" iron pin; thence S. 36 degrees 33' 03" E., a distance of 111.29 feet to a 5/8" iron pin, thence S. 28 degrees 26' 36" E. a distance of 161.73 feet to a 5/8" iron pin; thence N. 89 degrees 52' 17" W., a distance of 525.66 feet to the point of beginning, containing 5.55 acres more or less.

C. GRANT OF EASEMENT; ESTABLISHMENT OF RIGHT OF WAY

The Wegeners hereby grant and convey to the Walkers a 30 feet wide non-exclusive private easement, over, across and along the real property described as follows:

A strip of land 30 feet in width and lying along the east side of the following described line:

Beginning at the West quarter corner of Section 10, Township 39 South, Range 10 East of the Willamette Meridian, thence South 89 degrees 31' 40" East, along the South line of the SW ¼ NW ¼ of said Section 10, 344.48 feet to a 5/8" iron pin which marks the true point of beginning of this description; thence North 00 degrees 10' 53" West 694.70 feet to a 5/8" iron pin on the southerly line of that tract of land described in Deed Volume M-72 at page 10750 of the records of the Clerk of Klamath County, Oregon, which said pin marks the ending point of this description.

This easement and right of way may be used for vehicular and pedestrian ingress and egress and for utility purposes by the parties to this agreement. Use of the right of way shall be on a regular, continuous, nonexclusive, nonpriority basis, benefiting the parties, their successors, assigns, lessees, mortgagees, invitees, guests, customers, agents and employees. However, neither party's rights hereunder shall lapse in the event of that party's failure to use the easement and right of way on a continuous basis.

D. CONSTRUCTION AND MAINTENANCE OF ROADWAY

Either party may build, construct and maintain on the easement a roadway and such utility services as the party may desire. However, neither party shall be liable for the cost of such construction nor maintenance until such party commences using the easement for the benefit of his or her property. At such time as both parties, or their successors and assigns, are making a beneficial use of the easements, then the cost of maintaining and improving the easement shall be shared by each user in proportion to the use made of easement by each such person.

E. Such maintenance and repairs shall be performed by the respective parties on a prompt, diligent and regular basis in accordance with the generally accepted street and road maintenance standards then existing under the laws of Klamath County, Oregon.

F. Each party hereby indemnifies and holds harmless the other party from any liability arising out of the usage of the easement by the indemnifying party.

G. DEDICATION

If the parties are requested by an appropriate governmental jurisdiction to dedicate the easement for public use, or if one of the parties so requests such a dedication, each party shall promptly execute and deliver to such jurisdiction deeds conveying their respective portions of the roadway for such purposes.

In the event either party shall fail to perform its obligations under this agreement, the other party shall be entitled to require such performance by suit for specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon Law and those rights of cure and reimbursement specifically granted under this agreement.


## I. ATTORNEY FEES

In the event of any litigation arising under this agreement, the prevailing party shall recover from the losing party the prevailing party's reasonable attorney fees at trial or on appeal as adjudged by the trial or appellate court.

## J. EFFECT OF THE AGREEMENT

The easements granted hereunder shall run with the land as to all property burdened and benefited by such easements, including any division or partition of such property. The rights, covenants and obligations contained in this agreement shall bind, burden and benefit each party's successors and assigns, lessees and mortgagees.

Wilbur A. Walker

  
Ronald C. Wegener

Marie L. Walker


Sherry R. Wegener

STATE OF OREGON           )  
County of Klamath         ) SS

cc- Wilby R. Walker  
12400 Lyrne Ln  
Klamath Falls, Oreg-  
97603

On AUGUST 9, 1999 before me, JOHN VAN ORDE, personally appeared RON & SHERRY WEGELER AND WILBUR & MARIE WALKER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same. 99603

WITNESS my hand and official seal.

  
Notary Public for Oregon  
My commission expires: 12/1/2002



State of Oregon, County of Klamath  
Recorded 8/09/99, at 11:13 a.m.  
In Vol. M99 Page 31938  
**Linda Smith,**  
County Clerk Fees 40 -