

EQUITABLE SERVITUDE AND EASEMENT

This Equitable Servitude and Easement is made March , 2000 between Brothers Oil Company, an Oregon corporation (Grantor) and the State of Oregon, acting by and through the Oregon Department of Environmental Quality (DEQ or Grantee).

RECITALS

- A. Grantor is the owner of certain real property (Property) located in Crescent, Oregon, described as Lots Thirteen (13) and Fourteen (14), Block Twenty-nine (29), Crescent, Klamath County, Oregon.
- B. The Property, at the time of the execution of this Equitable Servitude and Easement, contains an area of soil contaminated with hazardous materials, particularly oil and gas, and its byproducts. Groundwater, both on the Property and off of it, is contaminated.
- C. DEQ has installed three monitoring wells at the site, including one that is located within a right-of-way belonging to the State of Oregon Department of Transportation (ODOT).
- D. A Final Risk Assessment has not yet been completed for the site.
- E. DEQ may do some or all of the following either at, or in connection with the Property—
 - complete its Final Risk Assessment, intended to be completed by October 2000
 - continue to monitor on-site and off-site groundwater contamination, intended to be completed sometime during 2002
 - take such further action deemed to be reasonable in cost and technologically feasible to monitor or remediate the contamination, although no such further action is contemplated at this time
- F. The provisions of this Equitable Servitude and Easement are intended to protect human health and the environment.

1. GENERAL DECLARATION

Grantor declares that all of Grantor's real property described in A, above, shall be and is subject to this Equitable Servitude and Easement, and may be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, only subject to terms herein. Each condition and restriction set forth in this Equitable Servitude and Easement shall run with the land for all purposes, shall be binding upon all Owners, and shall inure to the benefit of DEQ, until such time as DEQ releases or abandons its interest, in a writing signed by its authorized representative, acknowledged before a notary public, and filed in the appropriate real property records of Klamath County, Oregon.

DEQ is granted the right to do any and all acts reasonably deemed by it to be necessary or desirable in order to accomplish the action described in E, above. These rights include, but are not limited to—

- The right of ingress and egress to, on, into, under, and over the Property for persons, vehicles, and equipment as reasonably needed
- The posting of any notices on or attached to the property for proper notification of remaining soil and groundwater contamination
- Any acts reasonably related to maintenance and/or replacement of a water line at the Property

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Exhibit A

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3.4 The Owner of the Property shall notify DEQ within thirty (30) days following Owner's petitioning for or filing of any document initiating a rezoning of the Property.

3.5 Upon any violation of any condition or restriction contained in this Equitable Servitude and Easement, DEQ, in addition to any remedies provided at law, may enforce this Equitable Servitude and Easement or may seek any other available legal or equitable remedy to enforce this Equitable Servitude and Easement.

IN WITNESS WHEREOF Grantor and Grantee have executed this Equitable Servitude and Easement as of the date and year first set forth above.

GRANTOR:

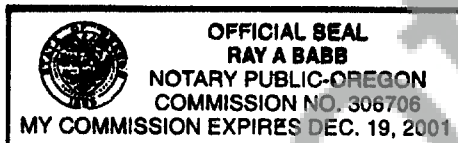
Brothers Oil Company, an Oregon corporation.

Richard A. Davis
Print Name: Richard A. Davis Pres

STATE OF OREGON)

County of Deschutes) ss.

The foregoing instrument is acknowledged before me this 25 day of Mar, 2000, by Richard A. Davis who declared that he is the President of the Grantor, Brothers Oil Company, and is authorized to sign this document on its behalf.



Ray A. Babb
NOTARY PUBLIC FOR OREGON

My commission expires: _____

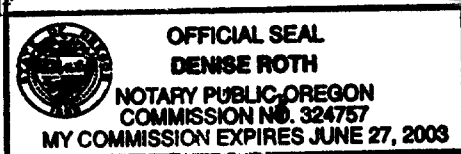
GRANTEE: Accepted by—

Paul Syman
State of Oregon Department of
Environmental Quality

STATE OF OREGON)

County of _____) ss.

The foregoing instrument is acknowledged before me this 4 day of APRIL, 2000, by Paul Syman, who declared that he is the DIVISION ADMINISTRATOR OF ECA of the Grantee, Oregon Department of Environmental Quality, and is authorized to sign this document on its behalf.



Denise Roth
NOTARY PUBLIC FOR OREGON

My commission expires: 6-27-03

After Recording, return certified copy to:
Rel. David Anderson, 8th Floor
811 SW 6th Avenue
Portland, OR 97204

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State of Oregon, County of Klamath
Recorded 04/14/00, at 12:30 p.m.
In Vol. M00 Page 12208
Linda Smith,
County Clerk Fee\$ 31.00

Exhibit A

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