

2001 FEB 15 AM 11: 44

Vol. M01 Page - 6077

AFTER RECORDING, RETURN TO: William M. Ganong
Attorney at Law
514 Walnut Avenue
Klamath Falls OR 97601

Aspen Title #01051199

RECIPROCAL EASEMENT

THIS AGREEMENT is made as of February 8, 2001, by and between Modoc Lumber Co., an Oregon corporation, herein called "Modoc," and Pine Cone, LLC., an Oregon Limited Liability Company, herein called "Pine Cone."

RECITALS:

A. Modoc is the owner of the real property in Klamath County, Oregon shown and described on Klamath County Partition No. 43-00.

B. Modoc has agreed to sell Parcel 2 as shown on said Partition No. 43-00 to the City of Klamath Falls, Oregon, for expansion of its sewage treatment plant.

C. Modoc has granted an Option to Pine Cone for the purchase by Pine Cone from Modoc of Parcels 1 and 3, as shown on said Partition No. 43-00.

D. In order to complete the partition of said parcels and the sale of said parcels to the City and Pine Cone, Modoc must create an easement for access to a portion of said land which currently has no legal access. In the event that Pine Cone exercises its Option as to only a portion of the remaining land, then Modoc must reserve to itself the right of use of said easement.

Therefore, the parties, for fair and adequate consideration, covenant and agree as follows:

1. Modoc does hereby grant, convey, and create a permanent, mutual, nonexclusive easement on, over, under, and across the real property described on Exhibit "A" attached hereto and incorporated herein by this reference.
2. The above-described easement shall be appurtenant to and benefit the respective ownerships of the parties, including any land hereafter acquired by the parties, their successors or assigns, which is contiguous to any of the real property currently owned by any of the parties.
3. The parties acknowledge that the easement, to the extent it has been developed, consists of a crude dirt road.
4. The easement established by this Agreement may be used for vehicular and pedestrian ingress and egress and as a utility corridor. No party's rights hereunder shall lapse as a result of

RECIPROCAL EASEMENT

Page 1.

36A

the party's failure to use the easement.

5. The parties have made this Agreement in anticipation of the development of the land shown on the map of said Partition No. 43-00. It is probable that the easement established hereby will be developed to the standards, then existing, of the land development code(s) of the city, county, or other entity with jurisdiction. In the event said entity requires a wider or a narrower right of way, the easement established hereby shall be adjusted accordingly.

6. Any party may, at any time, improve any part or all of the easement established hereby. Provided, however, that the other party shall have no obligation to participate financially in any such improvements. The party making said improvements shall be solely responsible for the maintenance of said improvements until such time as another party commences the improvement of its property. Thereafter, the costs of maintenance shall be shared by each holder of an interest in the easement in proportion to the use made of the easement by each holder of an interest in the easement. Use of the easement shall be based on the frequency of use and the weight of the vehicles using the easement.

7. Before commencing any improvement of the easement, the party performing the improvement or its contractor shall procure broad form public liability insurance with minimum combined limits of not less than \$1,000,000 and shall maintain said policy in force at all times. Said policy shall provide liability coverage for any act or omission relating to the improvement of the easement and to all activities, conditions, operations, and usages thereof. Said policy shall name the owners of the land on which the easement is located as additional insureds. Each party hereby agrees to indemnify and hold harmless the other parties from any liability and costs, including attorney's fees, arising out of the usage of the easement established hereby.

8. If a party is requested or required by an appropriate governmental jurisdiction to dedicate a right of way for public use or to dedicate a public road or street, each party shall promptly execute and deliver to such jurisdiction a deed conveying its respective portion of the easement for such purposes.

9. No party shall unreasonably curtail or impede use of the easement.

10. In the event any 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.

11. 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.

12. The easement granted hereunder shall run with the land as to all property burdened and benefitted by such easement, 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, mortgagees (or beneficiaries under a Trust Deed).

MODOC LUMBER CO.

By: Thomas M. Shaw
Its Vice President

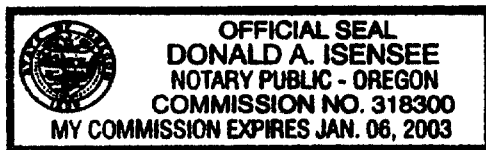
PINE CONE, LLC.

By: Robert J. Shaw
Its Operating Manager

STATE OF OREGON, County of Klamath) ss.

Personally appeared Thomas M. Shaw in his capacity as Vice President of Modoc Lumber Co., and executed the foregoing instrument in such capacity.

Before me this 9TH day of February, 2001.



Donald A. ISENSEE

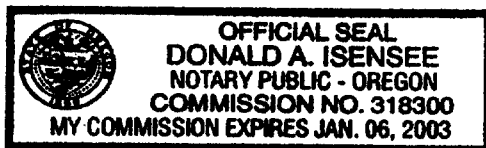
Notary Public for Oregon

My Commission Expires: 1-6-03

STATE OF OREGON, County of Klamath) ss.

Personally appeared Robert J. Shaw, in his capacity as Operating Manager of Pine Cone, LLC., and executed the foregoing instrument in such capacity.

Before me this 9TH day of February, 2001.



Donald A. ISENSEE

Notary Public for Oregon

My Commission Expires: 1-6-03

DESCRIPTION FOR ACCESS EASEMENT

A strip of land 60.00 feet in width situated in the S½ NE¼ and the N½ SE¼ of Section 32, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being 30.00 feet on both sides of the following described centerline:

Beginning at a point on the centerline of 3rd Street, said point being South 50°54'30" East 127.50 feet from the intersection of said centerline of 3rd Street with the southeasterly right of way line of Klamath Avenue, said point also being the northerly end of the centerline of that portion of 3rd Street vacated by Ordinance No. 5931 as recorded in Volume M73, Page 10602, records of Klamath County, Oregon; thence along the southeasterly prolongation of the centerline of 3rd Street and the centerline of vacated 3rd Street South 50°54'30" East 1965.00 feet to a point 30.00 feet when measured at right angles from the southeasterly right of way line of vacated Pacific Avenue; thence parallel to and 30.00 distant from the southeasterly right of way line of vacated Pacific Avenue, South 39°05'30" West 269.00 feet, more or less, to the line of ordinary high water of Lake Ewauna; the side lines of said strip to be shortened or lengthened to be continuous and to terminate at said northerly end of vacated 3rd Street and at said line of ordinary high water of Lake Ewauna; with bearings based on C.S. 6445.

1000-84

1/22/01



RENEWAL DATE 12/31/01

State of Oregon, County of Klamath
Recorded 02/15/01, at 11:44 a.m.
In Vol. M01 Page 6077
Linda Smith,
County Clerk Fee \$ 36.00