

AFTER RECORDING RETURN TO:  
Donald R. Crane, Attorney  
303 Pine Street, Suite 201  
Klamath Falls, OR 97601

Vol M04 Page 77509

State of Oregon, County of Klamath  
Recorded 11/10/04 11:51 a m  
Vol M04 Pg 77509-12  
Linda Smith, County Clerk  
Fee \$ 36<sup>00</sup> # of Pgs 4

04 NOV 10 AM 11:51

## ROAD AND UTILITY EASEMENT AGREEMENT

THIS AGREEMENT made this 22<sup>nd</sup> day of October, 2004, between Klamath Cascade Group LLC, hereinafter called "Grantor," and Maralea Peacore and Denise Diane Mathis, Trustees of Georgia C. Dehlinger and Clyde L. Dehlinger Trusts UTAD December 15, 1986, hereinafter called "Grantees."

### RECITALS

1. WHEREAS, Grantor owns certain real property in Klamath County, Oregon, more particularly described in Exhibit "A" attached hereto and herein referred to as "Grantor's parcel"; and
2. WHEREAS, Grantees own real property in Klamath County, more particularly described in Exhibit "B" attached hereto and herein referred to as "Grantees parcel"; and
3. WHEREAS, the parties have been operating under an agreement wherein the parcels are mutually benefited by an access and utility easement running to Grantee's parcel and across Grantor's parcel, and the parties desire to recognize such easement; and
4. WHEREAS, such easement is located at the present road and location of utilities, is further described and defined herein and is referred to herein as "the easement";
5. WHEREAS, Klamath Cascade Group and/or Klamath Pacific Companies is presently operating gravel operations and is responsible for all maintenance and other costs associated with the easement and this agreement shall define rights as between the parcels and owners for the future.

### AGREEMENTS AND GRANTS

1. In consideration of \$1.00 and other valuable consideration hereby paid to Grantor, the Grantor hereby grants a non-exclusive easement across Grantor's property for the benefit of the Grantees. Location of such easement is the present location of such road and utilities and may be moved as set forth herein.
2. Said easement shall be for ingress and egress, and for location of utilities. Neither party shall conduct activities upon the easement which shall unreasonably interfere with the rights of the other as enumerated herein.

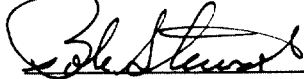
3. The easement, duties and obligations herein created are appurtenant and shall run with the land, burdening Grantor's parcel and benefiting both Grantor's parcel and Grantees' parcel.
4. All expenses, construction, maintenance, repair and replacement of said easement or facilities shall be the responsibility of the parties prorated according to their respective utilization as set forth below. This easement is non-exclusive; however either party may locate utilities along the easement benefiting only one parcel providing such location and use does not unreasonably interfere with the other party's rights as enumerated herein. In the event that either party shall desire to move the location of the road or utilities, that party may do so by giving the other advance notice. Such party shall pay for the entire costs associated therewith and shall conduct the construction in a manner to not unreasonably interfere with the use of the other and shall locate the road or utilities in a manner that is reasonable in location and with a reasonable grade.
5. All expenses of maintenance, repair and replacement of said easement facilities shall be paid by the parties who use such easement on a prorated basis, where the actual usage shall be taken into account. In other words, if one party is using the easement 50% of the time and causing 50% of the wear and tear on joint facilities, then such party's share of the maintenance costs shall be 50%. In the event that such prorate of maintenance, repair and replacement 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. It is recited that presently Grantees are not significantly utilizing the easement and initially no costs shall be attributed to Grantees.
7. If suit or action is instituted to enforce any of the provisions of this Contract, 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.
8. This agreement is binding upon the immediate parties hereto, their successors, assigns and personal representatives.

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

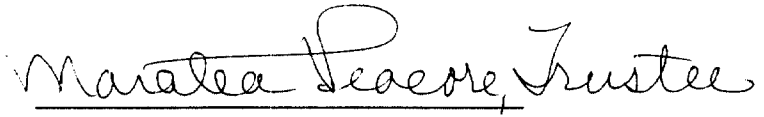
GRANTOR:

GRANTEES:

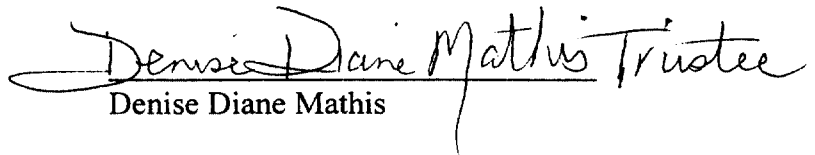
Klamath Cascade Group, LLC



Bob Stewart



Maralea Peacore



Denise Diane Mathis

STATE OF OREGON

] ]ss.

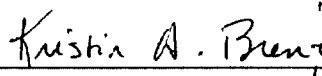
County of Klamath

]

On this 8<sup>th</sup> day of ~~October~~ <sup>November</sup>, 2004, personally appeared before me the above Bob Stewart, and acknowledged the above to be their voluntary act and deed.



OFFICIAL SEAL  
**KRISTIN A. BIENZ**  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 339204



Notary Public for Oregon

My Commission expires: 11/15/2004

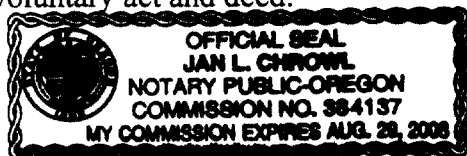
STATE OF OREGON

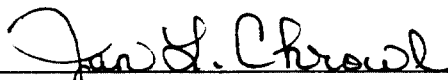
] ]ss.

County of Klamath

]

On this 22<sup>nd</sup> day of October, 2004, personally appeared before me the above Maralea Peacore and Denise Diane Mathis, Trustees of Georgia C. Dehlinger and Clyde L. Dehlinger Trusts UTAD December 15, 1986, and acknowledged the above to be their voluntary act and deed.





Notary Public for Oregon

My Commission expires:

EXHIBIT B

Real property in Klamath County described as:

The SE1/4 NW1/4 and N1/2 SE1/4 and SE1/4 SE1/4 of Section 32,  
Twp. 39 S., R. 10, E.W.M.