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Vol M04 Page 13571

After recording, return to:
Justin Throne, Esq.
280 Main Street
Klamath Falls, OR 97601

State of Oregon, County of Klamath
Recorded 03/09/2004 11:27 A m
Vol M04 Pg 13571-75
Linda Smith, County Clerk
Fee \$ 41.00 # of Pgs 5

Until further notice, send
all tax statements to:
City of Merrill
301 E. Second Street
P.O. Box 487
Merrill, Oregon 97633

2006-023161
Klamath County, Oregon



00009167200600231610060061

11/17/2006 03:37:18 PM

Fee: \$46.00

STATUTORY WARRANTY DEED

KENNETH L. DENCER and PATRICIA A. DENCER, Trustees of the DENCER FAMILY TRUST U/A/D 30 April 1990, Grantors, convey and warrant to the CITY OF MERRILL, Grantee, the following described real property, free of encumbrances except as specifically set forth herein:

See attached Exhibit A, incorporated herein by reference.

SUBJECT TO:

See attached Exhibit B, incorporated herein by reference.

Grantors, however, hereby expressly reserve to themselves, their heirs, executors, administrators, personal representatives, and assigns, an easement, as follows:

RECITALS

1. WHEREAS Grantors own real property that is adjacent to the real property described in Exhibit A, attached hereto, and that the property described in Exhibit A is hereby conveyed to, and is hereinafter referred to as "Grantee's parcel," and

2. WHEREAS said real property reserved by Grantors is described in Exhibit C attached hereto, and is hereinafter referred to as "Grantors' parcel," and

3. WHEREAS Grantors' parcel has appurtenant water rights for irrigation, and Grantee's parcel borders the Lost River.

****THIS DEED IS BEING RERECORDED TO ADD EXHIBIT C THAT WAS LEFT OFF OF M04 at page 13571**

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STATUTORY WARRANTY DEED & RESERVATION OF EASEMENT

Page 1 of 3

DENCER to CITY OF MERRILL

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RESERVATION OF EASEMENT

4. Said easement is to place a pump, power pole, panel, meter base and any incidental and reasonably necessary equipment or fixtures in order to divert irrigation water from the Lost River to Grantors' parcel in a location (hereinafter referred to as the "pump location") that is in the relative vicinity of the current pump, power pole, panel, and meter base that is used to divert water to irrigate Grantee's parcel.
5. Said easement is to divert and deliver water for irrigation through above-ground mainline pipe from the pump location to Grantors' parcel and to place, maintain, and operate said pipe in a reasonable manner that is outside the current crop use area of Grantee's parcel.
6. Said easement is to excavate for, install, replace, maintain and use underground mainline pipe for diversion and delivery of water for irrigation from the pump location to Grantors' parcel as a future alternative method to the above-ground mainline pipe.
7. Said easement is to access the pump location and all pipe connected thereto by motor vehicle, for operation, maintenance, repair, and inspection of same. All access will be by roads constructed and/or maintained by Grantee.
8. Said easement is perpetual and shall run with the land, so long as Grantors' parcel has appurtenant water rights, and that those are appropriated or managed by an owner or owners of record, or the agent thereof, of only one parcel, or by an agent or representative of a management entity, organization, or association of the landowner or landowners, regardless of parcel or lot size, of Grantors' parcel. It is the intent of this paragraph that the Grantee shall have to deal with only one party at a particular time regarding all matters covered by this reservation of easement. It is recognized that said easement burdens Grantee's parcel and that the benefit and appurtenance shall be to Grantors' parcel.
9. 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 and costs therein, including any appeal thereof.

The true and actual consideration for this conveyance is \$190,000.

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THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 8 day of March, 2004.

Kenneth L. Dencer, Trustee Patricia A. Dencer, Trustee
KENNETH L. DENCER, Trustee PATRICIA A. DENCER, Trustee

STATE OF OREGON]
County of Klamath] ss.

The foregoing instrument was acknowledged before me this 8 day of March, 2004, by Kenneth L. Dencer and Patricia J. Dencer.

[Signature]
Notary Public for Oregon
My Commission expires: 8-20-07

Exhibit A

Real property in the County of Klamath, State of Oregon, described as follows:

Parcel 1:

A portion of the SW 1/4 of NW 1/4 and of Lot 4 and of Lot 6 Section 12, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the West line of Section 12, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, 828.5 feet North of the quarter section corner common to Sections 11 and 12 of said Township and Range; thence North on the Section line 284.0 feet, more or less, to the Southwest corner of the subdivision of Clinton as platted and of record in the records of Klamath County, Oregon; thence East along the South line of said Township of Clinton, and along the South line of the lands heretofore deeded by Julia Lage et al to Edith Kandra, by Deed recorded at page 68 of Volume 68, Deed records of Klamath County, Oregon, 2674.0 feet, more or less, to the intersection with North and South center line of said Section 12; thence North along said North and South center line of said Section 12, 351.3 feet, more or less, to the Southerly water line of Lost River; thence following the said Southerly water line of Lost River, in a Southeasterly direction to the intersection of said Southerly water line of Lost River with the Northerly line of the right of way of the Central Pacific Railway Company as shown by Deed, Calvin N. Haskins to Central Pacific Railway Company, recorded at page 243 of Volume 85, Deed records of Klamath County, Oregon; thence Westerly following the said Northerly line of the right of way of the Central Pacific Railway Company as shown by said Deed, Haskins to Central Pacific Railway Company, 3954 feet, more or less, to the Southeast corner of the tract of land conveyed by Calvin N. Haskins to Fred Heilbronner et al by Deed recorded in Volume 92 page 424 Deed records of Klamath County, Oregon; thence North 208.0 feet on the Easterly line of said Heilbronner tract to the Northeast corner of said Heilbronner tract; thence West 446.0 feet, more or less, to the point of beginning.

Parcel 2:

Also a parcel of land described as follows: Beginning at the Southeast corner of said Township of Clinton and running thence East 1570 feet, more or less to the East boundary line of Lot 4, Section 12, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon; thence North along the Easterly boundary line of said Lot 4 to the South bank of Lost River; thence Northwesterly and following the South bank of Lost River to the Northeast corner of said Townsite of Clinton; thence in a Southerly direction, following the East boundary line of the said Townsite of Clinton to the point of beginning, excepting therefrom approximately one acre deeded by Clinton Van Brimmer and Martha Van Brimmer to Linus Jacobson, said Deed being recorded at page 270 of Volume 21, Deed records of Klamath County, Oregon.

Tax Parcel Number: 101918

Exhibit B

SUBJECT TO:

RESERVATIONS AND RESTRICTIONS OF RECORD, EASEMENTS AND
RIGHTS OF WAY OF RECORD AND THOSE APPARENT ON THE LAND,
AND CONTRACTS AND/OR LIENS FOR IRRIGATION AND/OR
DRAINAGE.

EXHIBIT "C"

All of the Townsite of Clinton, EXCEPTING Blocks 1, 2, 3 and Lots 1 and 8 of Block 8, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER with that portion of vacated "C" Street vacated by order dated September 13, 1957, recorded September 13, 1957 in Volume 294 page 333, Deed records of Klamath County, Oregon, bounded on the South by the North line of First Addition in Clinton, on the North by Lost River, on the East by the West line of Lot 4 Block 1 of Clinton and bounded on the West by the East line of Lot 1 Block 2 of Clinton.