

## EASEMENT AGREEMENT



00018067200700050240070071

03/21/2007 03:27:47 PM

Fee: \$51.00

After recording, return to:  
Justin Throne  
Attorney at Law  
280 Main Street  
Klamath Falls, Oregon 97601

## EASEMENT

THIS grant of easement is made this 10<sup>th</sup> day of December, 2006, by William L. Gallagher, Patricia A. Parsons, Michael R. Gallagher, Diane F. Bacon, John C. Gallagher, William L. Gallagher IV and Ryan Ross Gallagher, hereinafter referred to as Grantors, granting to Larry Mortensen and Cheryl Mortensen, husband and wife, hereinafter referred to as Grantees.

1. WHEREAS, the parties have established an existing road and have agreed that Grantees may use, in common with Grantors, access road across Grantors' real property; and
2. WHEREAS, Grantors owns the real property in Klamath County, Oregon, where the existing access road is located, over the N 1/2 SE 1/4 of Section 30 and the E 1/2 NE 1/4 and NW 1/4 NE 1/4 of Section 30, all in Township 36 S, Range 12 East of the Willamette Meridian, Klamath County, Oregon, hereinafter referred to as "Grantors' Parcel"; and
3. WHEREAS, Grantee owns adjoining real property described as that real property in Klamath County, Oregon, more particularly described in Exhibit "A," in Klamath County, Oregon, hereinafter referred to as "Grantees' Parcel."
4. In consideration of the \$1.00 and of the covenants contained herein, Grantors hereby grant a non-exclusive easement across Grantors' Parcel for the mutual benefit of Grantors and Grantees. Said easement is limited to the existing road located on Grantors' Parcel, or to such reasonable location that Grantors may choose to move such road. In no event shall the easement be greater than 30 feet in width.
5. Said easement shall be for ingress and egress, and location of utilities. Neither party shall conduct activities upon the easement which shall unreasonably interfere with the rights enumerated herein. Grantors may utilize the easement for agricultural purposes, including, but not limited to, locating, moving and doctoring livestock, and for improvements related to agricultural purposes; however, Grantors may not locate permanent structures which will permanently interfere with access and location of utilities, other than gates which Grantees may open and close. Grantees shall not interfere with or conduct themselves to violate Grantors' agricultural uses or cause damage to Grantors' agricultural production.

6. The easement, duties and obligations herein created are appurtenant and shall run with the land, as a benefit to both Grantors' Parcel and Grantees' Parcel, and as a burden to Grantors' Parcel.

7. All expenses of maintenance, repair and replacement of said easement or of road facilities shall be paid among the parties who use such easement on a prorated basis, where the volume and size of vehicles shall be taken into account. In other words, if one party is using the road easement 50% of the time and causing 50% of the wear and tear on the road, then such party's share of the maintenance costs shall be 50%. In the event that such prorate of maintenance 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.

Notwithstanding the above, each party shall be responsible for costs of location and maintenance of utilities on said easement. Utility location and whether such utilities shall be buried or otherwise, shall be subject to Grantors' approval; however, Grantors shall not unreasonably withhold such approval.

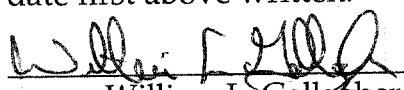
8. If suit or action is instituted to enforce any of the provisions of this Contract, the party prevailing therein shall be entitled to recover from the other such sum as the Court may adjudge reasonable as attorney's fees therein, including any appeal thereof.

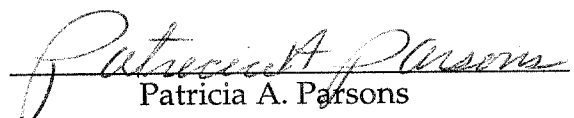
9. This agreement and grant is binding on the parties hereto and upon the heirs, successors in interests, personal representatives and assigns of the parties hereto, and shall run with the land. For purposes herein, the singular shall include the plural and the plural shall include the singular.

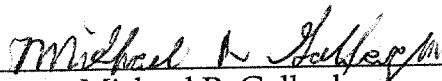
10. It is agreed that Grantors may add additional users to this easement. Grantees may not give permission to third parties (other than invitees to Grantees' Parcel), nor add additional benefited lands to this easement. In addition, this agreement is the total and final agreement of the parties, and any previous agreements, if any, and any rights, if any, by reason of use by Grantees, or their predecessors, of Grantors' real property are all merged into this agreement, and the parties are bound hereby as regards use of Grantors' real property benefiting Grantees' Parcel and by the Grantees. This provision is applicable to any other property presently owned by the parties hereto, though not described herein.

11. This agreement is prepared on behalf of Grantors by Justin Throne, attorney. All parties acknowledge this and acknowledge that they may obtain other counsel and that they have been advised to do so. This document shall not be construed for or against either party by reason of such representation and preparation.

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

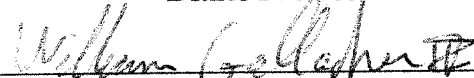
  
William L. Gallagher


  
Patricia A. Parsons

  
Michael R. Gallagher

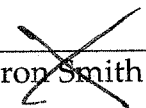
  
Diane F. Bacon

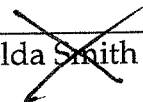
  
John C. Gallagher

  
William L. Gallagher IV

  
Ryan Ross Gallagher

  
~~Dell Smith, Jr.~~

  
~~Aaron Smith~~

  
~~Velda Smith~~

  
Larry Mortens

STATE OF OREGON

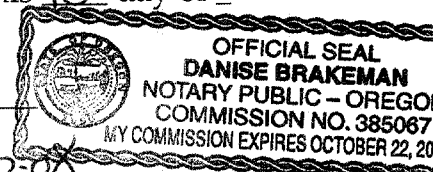
] ss.

County of Klamath. ]

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of December, 2006, by William L. Gallagher.

Danise Brakeman

Notary Public for Oregon  
My Commission expires: 10-22-08



STATE OF OREGON

] ss.

County of Klamath. ]

The foregoing instrument was acknowledged before me this 11 day of Dec, 2006, by Patricia A. Parsons.

Stacy L. Allen

Notary Public for Oregon  
My Commission expires: 8/18/10



STATE OF OREGON

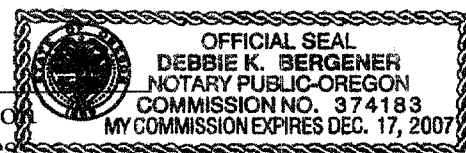
] ss.

County of Klamath. ]

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of Dec, 2006, by Michael R. Gallagher.

Debbie K. Bergener

Notary Public for Oregon  
My Commission expires:



STATE OF OREGON

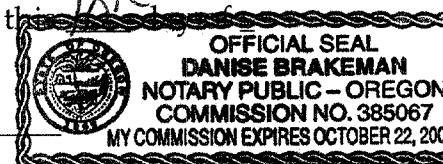
] ss.

County of Klamath. ]

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of December, 2006, by Diane F. Bacon.

Danise Brakeman

Notary Public for Oregon  
My Commission expires: 10-22-08



STATE OF OREGON

] ss.

County of Klamath. ]

Gallagher/Smith Easement

Page 4 of 6.

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of December, 2006, by John C. Gallagher

Danise Brakeman

Notary Public for Oregon

My Commission expires: 10/22/08

STATE OF OREGON

] ss.

County of Klamath. ]

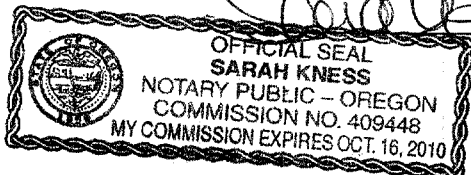


The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of December, 2006, by William L. Gallagher IV.

Sarah Kness

Notary Public for Oregon

My Commission expires: 10/16/10



STATE OF OREGON

] ss.

County of Klamath. ]



The foregoing instrument was acknowledged before me this 12 day of Dec, 2006, by Ryan Ross Gallagher.

Stacy Lauren

Notary Public for Oregon

My Commission expires: 8/18/10

STATE OF OREGON

] ss.

County of Klamath. ]

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by Dell Smith, Jr.

\_\_\_\_\_  
Notary Public for Oregon  
My Commission expires:

STATE OF OREGON

] ss.

County of Klamath. ]

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by Aaron Smith.

Notary Public for Oregon  
My Commission expires:

SS.

1

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by Velda Smith.

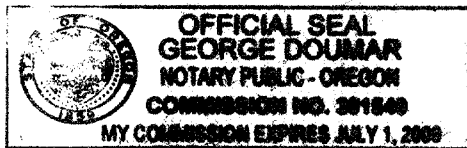
Notary Public for Oregon  
My Commission expires:

SS.

1

The foregoing instrument was acknowledged before me this 19 day of December, 2006, by Larry Mortenson.

Notary Public for Oregon  
My Commission expires: \_\_\_\_\_



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

A tract of land situated in Section 19, Township 36 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, described as the W1/2 of the SW1/4 of the NE1/4 of Section 19, Township 36 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, said tract more particularly described as follows:

Commencing at the N1/4 corner of said Section 19; thence South along the North-South centerline of said Section 19 1320.00 feet more or less, to the Northwest corner of the SW1/4 of the NE1/4 and the TRUE POINT OF BEGINNING of the hereinafter described tract of land; thence continuing South along said North – South centerline 1320.00 feet more or less, to the center of said Section 19, thence East 660.00 feet, more or less, to the Southwest corner of the W1/2 of the SW1/4 of the NE1/4 of said Section; thence North along the East line of the W1/2 of the SW1/4 of the NE1/4 1320.00 feet, more or less, to the Northeast corner thereof; thence West 660.00 feet, more or less, to the true point of beginning.

TOGETHER WITH an easement for ingress and egress as granted by instrument recorded November 15, 2006 in Volume 2006, page 022924, Microfilm Records of Klamath County, Oregon.