

2007-011095

Klamath County, Oregon



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Fee: \$51.00

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Justin E. Throne
280 Main Street
Klamath Falls, OR 97601

TRACKAGE EASEMENTS

This agreement is made this 19th day of June, 2007, by and between Timberlake Railroad, LLC, an Oregon Limited Liability Company ("Timberlake"), Jerry G. Balf and Louise M. Balf, Trustees of the Balf Family Trust Dated May 21, 1997 ("Balf"), and 36869 Highway 62 Ltd., a British Columbian Limited Company ("Vanderspek").

WHEREAS Timberlake owns the following parcels of property located in Klamath County, Oregon, which shall be referred to herein separately as "Timberlake West Parcels" and "Timberlake East Parcels," and are legally described as follows:

Timberlake West Parcels:

A parcel of land situated in Government Lot 26, in Section 5, Township 35 South, Range 7 East of the Willamette Meridian, excepting the Northwest corner, more particularly described as follows:

BEGINNING at the Northwest corner of said Government Lot 26; thence East 834.8 feet; thence South, parallel to the West line of said lot 208.7 feet; thence West parallel to the North line of said lot 834.8 feet, to a point on the West line of said lot; thence North on said West line 208.7 feet, to the point of beginning; and

A parcel of land situated in the Northwest corner of Government Lot 26, in Section 5, Township 35 South, Range 7 East of the Willamette Meridian, more particularly described as follows:

BEGINNING at the Northwest corner of said Government Lot 26; thence East 834.8 feet; thence South, parallel to the West line of said lot 208.7 feet; thence West parallel to the North line of said lot 834.8 feet, to a point on the West line of said lot; thence North on said West line 208.7 feet, to the point of beginning.

Timberlake East Parcels:

Government Lots 33 and 34, Section 4, Township 35 South, Range 7 East of the Willamette Meridian; and

A tract of land situated in Government Lots 3 and 4, Section 9, Township 35 South, Range 7 East of the Willamette Meridian, being more particularly described as follows: Beginning at the intersection of the North line of said Lot 3 and the Northerly line of Highway 422; thence North 89° 05'29" West, 48.76 feet to the Northwest corner of said Lot 3; thence North 89° 02'23" West on the North line of said Lot 4, 497.50 feet;

thence South 09° 24'00" East, 317.74 feet to the Northerly line of Highway 422; thence Northeasterly on said Northerly line, 584.70 feet, more or less, to the point of beginning.

WHEREAS, Balf owns a parcel of property legally described as follows:

A parcel of land situated in Government Lot 25, Section 5, Township 35 South, Range 7 east of the Willamette Meridian, Klamath County, Oregon, and more particularly described as follows:

Commencing at the Southwest corner of said Lot 25; proceeding Northerly 250 feet, thence Easterly 660 feet, thence Southerly 250 feet, thence Westerly 660 feet to the point of beginning ("Balf Parcel").

WHEREAS, Vanderspek owns a parcel of property legally described as follows:

Lot 32 in Section 5, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon ("Vanderspek Parcel").

WHEREAS, all of the adjoining parcels described above shall herein be referred to together as the "burdened parcels" that are owned by the "burdened parties" and, where appropriate, the burdened parties shall reciprocally be referred to as the "benefited parties."

NOW THEREFORE, in consideration of \$1.00 paid by each party to the other party, and in consideration of the mutual covenants contained herein, the parties agree as follows:

1. All of the parties grant to each other a limited easement for trackage, which is defined as the occupancy and use of any burdened parcel for access for ingress, transit, and egress upon the burdened parcel, except for in areas defined as "private trackage" in Exhibit A, which is attached hereto and incorporated by reference, to operate 7-1/2" gauge miniature railroad equipment and to walk along the track or an area five feet (5') on either side of the centerline of said track for a total of ten feet (10') of width for a single track line and fourteen feet (14') of width for a double track line.

2. For purpose of this agreement, the term "trackage" is defined to include everything constructed and resting upon, or immediately adjacent to and thereby a part of, the respective easements, and consists of, but is not limited to, plastic underlayment, track panels, switches, crossovers, road crossings, switching systems, signal systems, supplied electrical power, supplied potable water systems, signage, ballast, culverts, trestles, turntables, loading and unloading facilities, fueling facilities, bridges and tunnels that exist within the land.

3. The benefited parties agree to use the easements created by this agreement at their own risk, and further covenant to indemnify and hold harmless the burdened parties for and against any and all liability, arising from injury to person or property, occasioned

wholly or in part by any act or omission of the benefited party, or its "participants," which term is defined to include, but is not limited to, members, guests, invitees, licensees, permittees, owners, operators, riders, volunteers, observers, and agents.

4. The benefited parties agree to maintain, at all times during use of the easements, a suitable policy of general liability coverage, in an amount not less than five hundred thousand dollars (\$500,000), and if available, naming the burdened parties as additional insured parties, and to also provide evidence and a copy of said policies to all the parties.

5. Except as expressly set forth in Paragraph 6 of this agreement, the limited easements created by this agreement are personal in nature, are in gross, are not assignable, transferable, or devisable, and do not run with the land. Any easement created by this agreement that is not a permanent easement as established in Paragraph 6, and for which the burdened parcel is assigned, leased, transferred, sold, gifted, or otherwise conveyed to the ownership or control of another party, shall automatically cease and be of no further force and effect. The easements that benefit Timberlake and Vanderspek (the parties who are perpetual companies) shall not cease so long as at least fifty-one percent (51%) of each entity is owned by the parties that owned each entity at the time of this agreement; however, if any entity is owned or controlled by any individual who was an employee, officer, director, owner or manager of Train Mountain, Inc., an Oregon business corporation, or Train Mountain Railroad Museum, an Oregon non-profit corporation, at any time prior to the year 2006, that particular easement shall automatically cease and be of no further force and effect.

6. The following easements shall be permanent and perpetual and shall be appurtenant to and run with the land (in the case of Timberlake, to and with both the East Parcels and West Parcels), binding heirs, successors, and assigns:

a. Balf grants to Timberlake and Vanderspek, a non-exclusive trackage easement over the Balf Parcel to connect and use the trackage approaching the Northwest corner of the Vanderspek Parcel to trackage approaching the Southeast corner of Timberlake West Parcels; however, said easement shall not include any private trackage owned by Balf and Balf shall determine the exact route.

b. Vanderspek grants to Timberlake and Balf, a non-exclusive trackage easement over the trackage existing and installed at the date of this agreement on the Vanderspek Parcel, excepting private trackage, and a non-exclusive trackage easement to connect from the switch immediately west of the "Field Siding" to Balf's trackage approaching the Northwest corner of the Vanderspek Parcel.

c. Timberlake grants to Vanderspek a non-exclusive trackage easement to use and construct trackage that will connect to Balf's trackage near the Southeast corner of Timberlake West Parcel #13 to a point on "Train

Mountain" property between the Northwest corner of Timberlake West Parcel #14 and a point forty feet (40') east of that Northwest corner of Timberlake West Parcel #14; and Timberlake shall determine the exact route.

d. Timberlake grants to Vanderspek a non-exclusive easement to construct and use trackage beginning near the Northeast corner of Vanderspek's parcel where trackage enters Timberlake East Parcel #5, crossing Hidden Valley Road on the existing grade crossing, continuing over existing switch and track, continuing north far enough to switch to a new track that will proceed north in a ten foot (10') wide corridor thirty feet (30') to forty feet (40') from, and running parallel to, the Western boundary of Timberlake East Parcel #5 until the trackage reaches "Train Mountain" property, all as shown in Exhibit B, which is attached hereto and incorporated by reference.

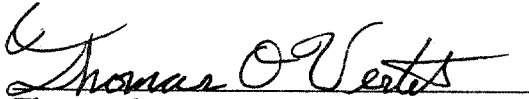
7. All trackage connections must be built according to "Train Mountain" track standards, then in place, and such new trackage that is built and constructed, and upon completion of construction, shall become the property of the parcel owner upon which the track sits.

8. The parties agree and covenant that they shall not maintain or erect fences that would block or stymie the free flow of model train traffic across the easements.

9. The parties shall equitably apportion any maintenance and repair expenses associated with the easements created by this agreement.

TIMBERLAKE:

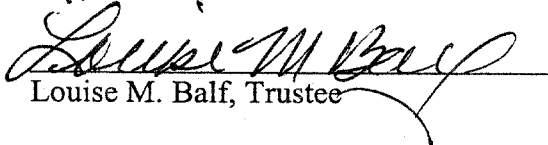
Timberlake, LLC, an Oregon limited liability company:



Thomas O. Vertel, Trustee of the Thomas O. Vertel Revocable Intervivos Trust
Dated November 4, 2004, as Manager.

BALF:

Trustees of the Balf Family Trust Dated May 21, 1997


Jerry G. Balf, Trustee
Louise M. Balf, Trustee

VANDERSPEK:

36869 Highway 62 Ltd., a British Columbian limited company:

Carl Vanderspek, owner/managing dir.
Carl Vanderspek, owner/managing dir.

STATE OF OREGON, County of Klamath.

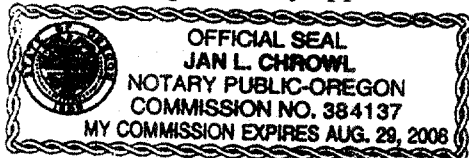
SUBSCRIBED AND SWORN TO before me this 19 day of June, 2007, by Thomas O. Vertel, who personally appeared.



Jan L. Chrowl
Notary Public for Oregon
My commission expires: 8-29-08

STATE OF OREGON, County of Klamath.

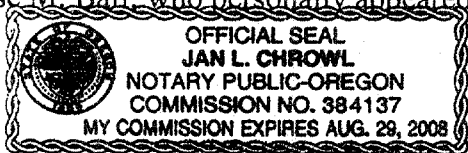
SUBSCRIBED AND SWORN TO before me this 19 day of June, 2007, by Jerry G. Balf, who personally appeared.



Jan L. Chrowl
Notary Public for Oregon
My commission expires: 8-29-08

STATE OF OREGON, County of Klamath.

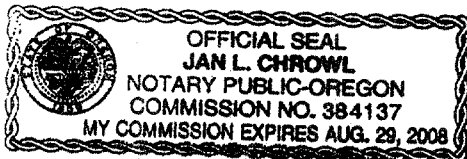
SUBSCRIBED AND SWORN TO before me this 19 day of June, 2007, by Louise M. Balf, who personally appeared.



Jan L. Chrowl
Notary Public for Oregon
My commission expires: 8-29-08

STATE OF OREGON, County of Klamath.

SUBSCRIBED AND SWORN TO before me this 19 day of June, 2007, by John C. Black, who personally appeared, as attorney-in-fact for Carl Vanderspek.



Jan L. Chrowl
Notary Public for Oregon
My commission expires: 8-29-08

TRACKAGE EASEMENTS

Page 5 of 5

Trackage Easement Agreement -- Exhibit A

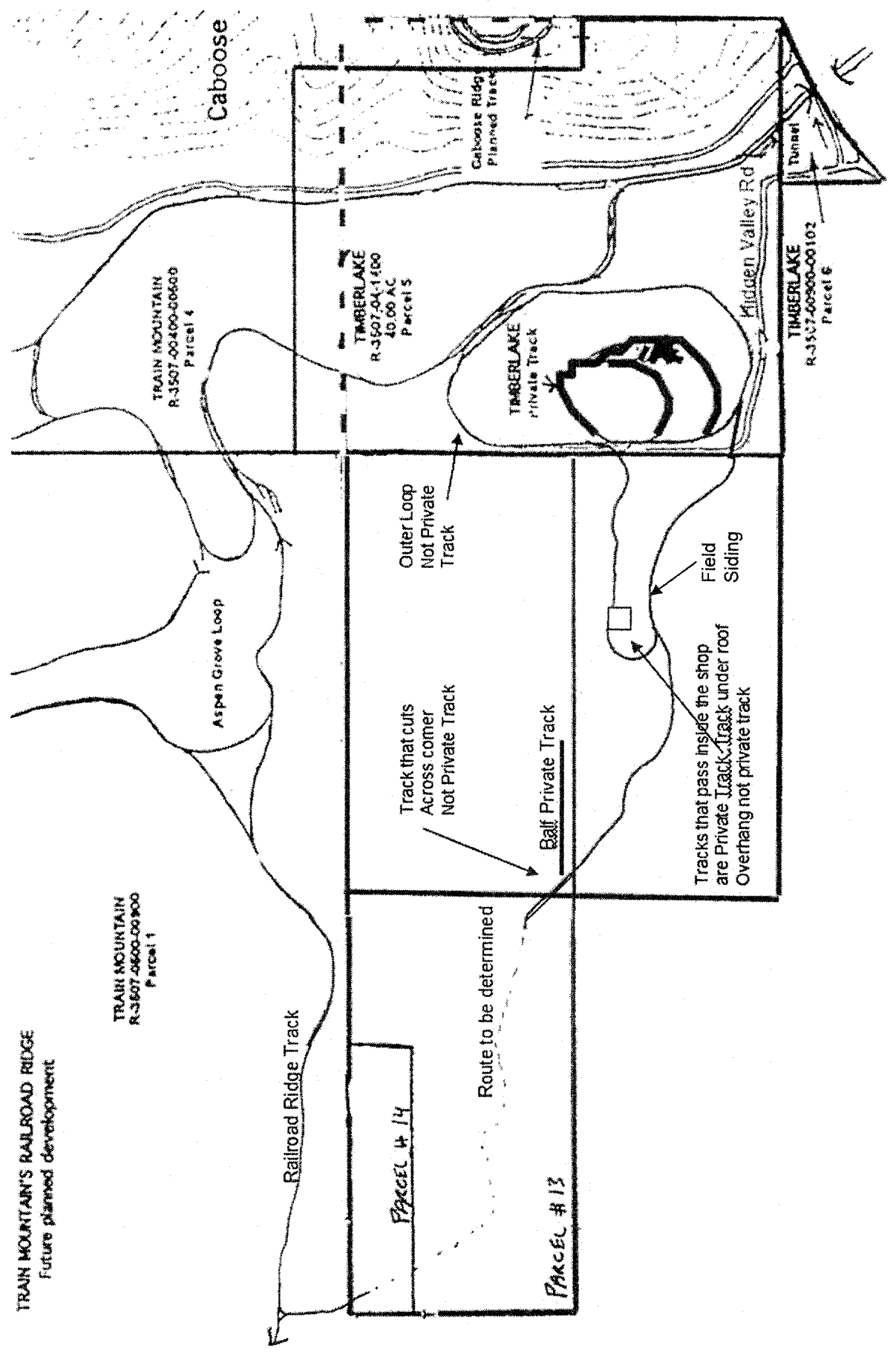


Exhibit B

Trackage Easement Agreement

