

MTC 79854-KR  
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Mike Rudd

2008-005248  
Klamath County, Oregon



04/09/2008 03:03:25 PM

Fee: \$56.00

**EASEMENT AND WELL  
MAINTENANCE AGREEMENT**

DATED: April 9, 2008

PARTIES: Rocking P-B, LLC,  
An Oregon Limited Liability Company  
7677 Lower Lake Road  
Klamath Falls, OR 97603 Hereinafter "Grantor"

And

Gary D. Orem and Janie M. Orem  
19980 Highway 50  
Merrill, OR 97633 Hereinafter "Grantee"

**RECITALS:**

Grantor is the owner of certain real property located in Klamath County, Oregon, more particularly described on the attached Exhibit "A".

Grantee is the owner of certain real property located in Klamath County, Oregon, more particularly described on the attached Exhibit "B".

A well is located upon the real property of Grantor, referenced above, and it is the intention of the parties herein that Grantee be given an easement across a portion of Grantor's land for the purpose of giving Grantee access to said well and partial beneficial use of the same from the date of this Agreement to November 1, 2009.

The parties further herein agree to maintain the well on the following terms and conditions:

**AGREEMENT:**

For and in consideration of the sum of \$10.00, receipt of which is hereby acknowledged, and the mutual covenants and agreements contained herein, Grantor does hereby convey to Grantee a non-exclusive easement 15-feet in width across the property of Grantor as described in the attached Exhibit "A" from Lower

1. EASEMENT AND WELL MAINTENANCE AGREEMENT

5/1/08 MT

Klamath Lake Road to the pump subject to this Agreement upon the currently existing roadway that is constructed between the pond and the service pole on Grantor's property. A map depicting said easement is attached hereto as Exhibit "C". Grantor further conveys to Grantee a non-exclusive easement to maintain the irrigation mainline from the well and pump to Grantee's property described in the attached Exhibit "B", which is also delineated on the attached Exhibit "C".

These easements shall be for the purpose of giving Grantee access to said well and mainline and shall also be for the purpose of allowing Grantee to have and maintain the water line for purposes of providing irrigation water from said well to the lot owned by Grantee. This easement shall be appurtenant to and shall run for the benefit of the real property owned by Grantee described on the attached Exhibit "B".

This easement shall be subject to the following additional terms:

1. The purpose of said easement shall be to permit Grantee to share with Grantor in the beneficial use and enjoyment of that well located on Grantor's property and further delineated on the attached Exhibit "C". For purposes of water allocation it shall be conclusively presumed that Grantee is irrigating 44.4 irrigable acres located on his property described in the attached Exhibit "B" and that Grantor is irrigating 180 irrigable acres located on Grantor's property described in the attached Exhibit "A". Such percentage use of the property shall be conclusively presumed to be Grantor of 80% and Grantee of 20%.

2. Grantor, its heirs, successors and assigns, and Grantee and his heirs, successors and assigns shall share on the above percentage basis all liability for the cost and expense of repairs to, maintenance of, and operation of said well, pump and appurtenants.

3. The easement shall not be perpetual but shall expire on November 1, 2009 unless sooner terminated as provided for herein.

4. Grantee, its heirs, successors and assigns, shall be responsible for repair and maintenance of any mainline and irrigation lines running from the well to Grantee's property.

5. The map attached hereto as Exhibit "C" covering the subject properties referred to above in which both said Grantor

and Grantee acknowledge shows the approximate locations of the well, easements and access road.

6. Should, at any time during the term of this Agreement, Grantee, his heirs, successors and assigns, drill his own well for his own irrigation use, Grantee shall be allowed to release himself from this Agreement upon the occurrence of the following:

6.1 Grantee shall notify Grantor, in writing, that Grantee no longer desires use of the well located on Grantor's property. Grantee shall obtain and pay for a licensed contractor, licensed to do business in the State of Oregon, to disconnect any mainlines and/or irrigation pipes from the well located upon Grantor's property.

6.2 Upon completion of the disconnection of the irrigation mainlines from Grantor's property, Grantee shall file in the real property records for Klamath County, Oregon, a document sufficient to terminate this Easement Agreement.

6.3 Upon the filing of the release of the Easement Agreement in the real property records for Klamath County, Oregon, Grantee shall be released from any further liability to Grantor for the costs, expenses and maintenance to the well, pump and appurtenants.

This Agreement shall inure to the benefit of Grantor's and Grantee's heirs, successors and assigns.

Any cause of action brought to enforce the terms and provisions of this Agreement shall be brought in the Circuit Court, State of Oregon, County of Klamath, and shall be interpreted in accordance with the laws of the State of Oregon.

Should suit or action be instigated to enforce the terms and provisions of this Agreement, the prevailing party shall be entitled to recover from the losing party those sums adjudged to be reasonable attorney's fees, costs and disbursements incurred at trial and upon any appeal therefrom.

If any term or provision of this Agreement is deemed invalid or prohibited under applicable state law or regulations, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect.

Any notice or communication regarding this Agreement shall be sent to the other party and shall be deemed effective three days

### 3. EASEMENT AND WELL MAINTENANCE AGREEMENT

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after the date it is deposited in the United States Postal Service mailing system, postage prepaid, or upon actual receipt of any parcel as evidenced by certified mail or special delivery. Notice shall be deemed sufficient if given to the address set forth above or any subsequent address given by either party in writing to the other.

This Agreement may not be modified in any fashion other than in writing, signed by both parties.

GRANTOR:

GRANTEE:

Rocking P-B, LLC

By: Charles D. Bury

Its: Member

→ see signature & notary  
on attached duplicate Page 4

Gary D. Orem  
Gary D. Orem

Janie M. Orem  
Janie M. Orem

STATE OF OREGON )

) ss. \_\_\_\_\_, 2008

County of Klamath )

Personally appeared, Charles D. Bury, who being duly sworn, stated he is a member of Rocking P-B, LLC and that said instrument was signed on behalf of said limited liability company by authority of its members; and he acknowledged said instrument was its voluntary act and deed. Before me:

Notary public for Oregon

My commission expires: \_\_\_\_\_

STATE OF OREGON )

) ss. April 9, 2008

County of Klamath )

Personally appeared, Gary D. Orem and Janie M. Orem, and acknowledged the foregoing to be their true act and deed. Before me:



Kristi L. Redd  
Notary public for Oregon

My commission expires: 11/16/2011

after the date it is deposited in the United States Postal Service mailing system, postage prepaid, or upon actual receipt of any parcel as evidenced by certified mail or special delivery. Notice shall be deemed sufficient if given to the address set forth above or any subsequent address given by either party in writing to the other.

This Agreement may not be modified in any fashion other than in writing, signed by both parties.

GRANTOR:

GRANTEE:

Charles D. Bury  
 Rocking P-B LLC  
 By: Charles D. Bury  
 Its: Member

\_\_\_\_\_  
 Gary D. Orem

\_\_\_\_\_  
 Janie M. Orem

STATE OF OREGON            )  
                                   ) ss. April 9, 2008  
 County of Klamath        )

Personally appeared, Charles D. Bury, who being duly sworn, stated he is a member of Rocking P-B, LLC and that said instrument was signed on behalf of said limited liability company by authority of its members; and he acknowledged said instrument was its voluntary act and deed. Before me:



Kristi L. Redd  
 Notary public for Oregon  
 My commission expires: 11/16/2011

STATE OF OREGON            )  
                                   ) ss. \_\_\_\_\_, 2008  
 County of Klamath        )

Personally appeared, Gary D. Orem and Janie M. Orem, and acknowledged the foregoing to be their true act and deed. Before me:

\_\_\_\_\_  
 Notary public for Oregon  
 My commission expires: \_\_\_\_\_

#### 4. EASEMENT AND WELL MAINTENANCE AGREEMENT

Exhibit "A"

Parcel 1 of Land Partition 45-06, being situated in the S½ of Section 8, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

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EXHIBIT "B"

Parcel 2 of Land Partition 45-06, being situated in the S½ of Section 8, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

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UNITED STATES

FRANK & PEGGY WALLACE

WILLIAM & MILENE MOORE

WILLIAM & MILENE MOORE

1/4 COR.  
SEC. 11B

26107

DEPT. OF AGRICULTURE

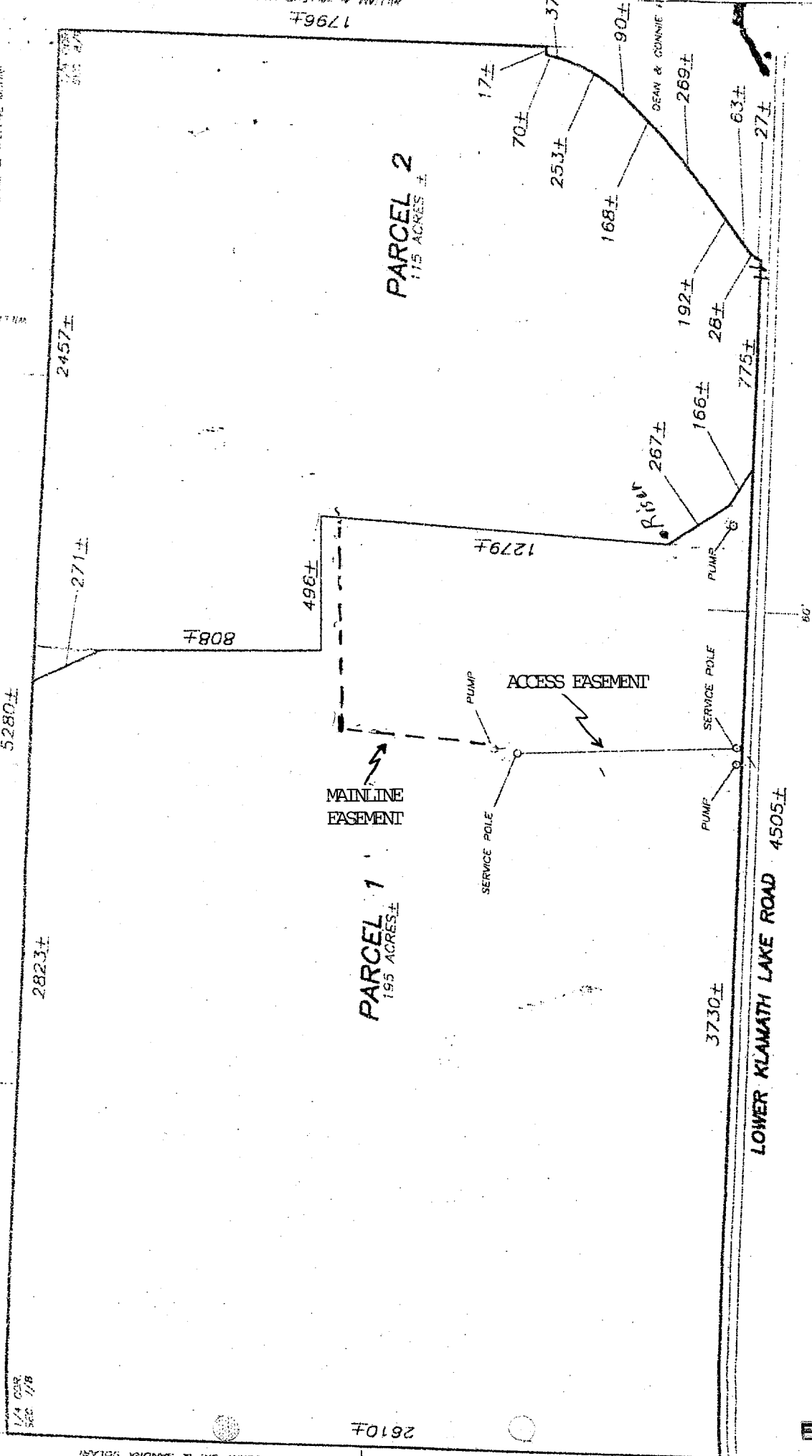


EXHIBIT "C"