

2010-002794

Klamath County, Oregon



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AFTER RECORDING, RETURN TO:

William M. Ganong
Attorney at Law
514 Walnut Avenue
Klamath Falls OR 97601

03/02/2010 09:52:42 AM

Fee: \$102.00

EASEMENT AGREEMENT FOR ACCESS PURPOSES

This Agreement is made this 4 day of September, 2009, by and between Susan G. Boehner; Dorothea G. Yellott and John Yellott, Trustees; and Alice G. Kilham, Edward Geary Kilham and Nancy Elizabeth Kilham, Trustee and Successor Trustees, Grantors, and Richard Geary, and the heirs of his body, Grantees.

RECITALS:

A. Grantors own real property in Klamath County, Oregon more particularly described on Exhibit A attached hereto.

B. Grantees own real property in Klamath County, Oregon more particularly described on Exhibit B attached hereto.

C. Each of the parties desires to further develop their respective parcels for forestry, agricultural, residential, recreational, and other purposes.

D. Each of the parties intends to create a permanent and mutual easement and right-of-way for use by them as a private roadway and easement for utilities and services. Such easement shall be appurtenant to and shall benefit all of the property of the parties described in Recital paragraphs A. and B., above.

The parties, therefore, agree as follows:

Section 1. Grant of Easement, Establishment of Right of Way.

1.1 Grantors grant and convey to Grantees a permanent, mutual easement and right of way on, under, over, and across the route shown on Exhibit C attached hereto from Oregon State Highway 140 W at the Martha Smith driveway to and along the Easterly boundary of the AM Geary parcel to the Alice Kilham road and thence Easterly to the land described on

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Exhibit B and a further easement along the Southwesterly boundary of the land described on Exhibit A from the point where the Martha Smith Drive way enters Grantors' land at Highway 140 to the point where the "Warehouse road" enters Grantors' land from Highway 140 (collectively the "easement"). The easement granted hereby shall be 60 feet in width except for that portion from Highway 140 to the Alice Kilham road which shall be 80 feet in width and shall be appurtenant to and for the benefit of the real property owned by each of the parties hereto more particularly described on Exhibits A and B.

1.2 Said easement and right-of-way may be used for vehicular and pedestrian ingress and egress purposes and for the location and relocation of utilities and services intended for the benefit of the land of the parties described above. Each party acknowledges and agrees that one or more of the parties to this agreement hold their land for development purposes and may divide, subdivide, and sell lots and parcels of their land. This easement shall be for the benefit of and appurtenant to each partition and subdivision of the land of the parties hereto. No party's rights hereunder shall lapse in the event of that party's failure to use the easement and right of way granted hereby on a continuous basis.

Section 2. Construction of Improvements.

2.1 Any of the parties hereto, at any time, may construct, reconstruct, maintain, and improve a roadway and such utilities and services as such party may desire for the purposes described above. However, no other party to this agreement shall be obligated to join in such development and shall not be liable for the cost of any such development unless otherwise agreed in writing.

2.2 No party making improvements pursuant to this agreement shall be obligated to any other party to design, engineer, or construct such improvements with capacity to meet the needs of the land of the other parties to this agreement.

Section 3. Maintenance and Repair.

3.1 The cost of periodic maintenance and necessary repairs to the roadway and other improvements hereafter constructed on the easement and right of way shall be borne exclusively by the party or parties whose land is actively benefiting from said improvements on a pro rata basis based on the usage each party makes of the Easement.

3.2 Each party shall pay when due all real property taxes, assessments, and other charges against the land to which each party holds fee title and which is part of this mutual easement. There shall be no right of contribution from any other party for such expense.

3.3 Each party shall and does hereby agree to indemnify and hold each of the other parties harmless from any damages or claims of damages relating to all activities, conditions, operations, and usages on the easement by the party and the party's successors in interest.

Section 4. Additional Easements.

4.1 Upon request of any party, the other parties shall grant to the requesting party such reasonable additional permanent and appurtenant easements within the area of the Easement created hereby as are necessary for installing, repairing, or maintaining water, gas, sewer, storm drainage, electrical, telephone, and cable lines, and other facilities serving all or a portion of the property benefited by this agreement. The cost of all such installation, repair, and maintenance shall be borne by the party requesting the grant of such easement, unless the other parties shall also actively use such easement for similar purposes.

4.2 No installation, repair, or maintenance of any such utility line or facility shall curtail or unreasonably impede the use of the easement for vehicular and pedestrian ingress and egress.

Section 5. Breach of Obligations. In the event that any party to this agreement shall fail to perform its obligations under this agreement, the other parties shall be entitled to require such performance by suit for specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon law and those rights of cure and reimbursement specifically granted under this agreement.

Section 6. Attorney's Fees. In the event of any litigation arising under this agreement, the prevailing party shall recover from the losing party the prevailing party's reasonable attorney's fees at arbitration, trial, or on appeal, as adjudged by the appropriate arbitrator, trial or appellate court.

Section 7. Effect of the Agreement. The easements created and granted hereunder shall run with the land as to all property burdened and benefited by such easements, including any division or partition of such property. The rights, covenants, and obligations contained in this agreement shall bind, burden, and benefit each party's successors and assigns, lessees, mortgagees, and beneficiaries under Deeds of Trust. Provided, however, that if Grantees' land or a portion of Grantees' land is conveyed to the owner of any adjoining land, or if other legal access for ingress and egress and other access for the provision of all reasonable and appropriate utilities and services is provided to Grantees' land or a portion of Grantees' land, then the right of Grantees' successor(s) in interest under this Easement Agreement shall terminate as to that land conveyed to an adjoining landowner or for which other legal access is provided. The owner of Grantees' land that is provided with alternate access or the owner of Grantees' land conveyed to an adjoining landowner shall have no further right to use the easements created by this Easement Agreement and shall have no further obligations under this Easement Agreement.

WITNESS the hands of the parties as of the date first herein set forth.

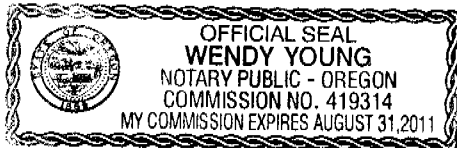
GRANTORS:

Susan G. Boehner
Susan G. Boehner, Grantor

STATE OF Oregon, County of Klamath

This instrument was acknowledged before me on Sept. 8, 2009 by Susan G. Boehner.

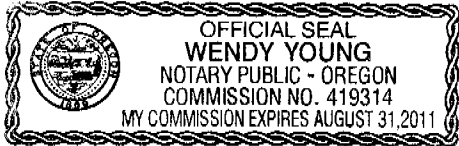
Wendy Young
Notary Public for Oregon
My Commission Expires: 8.31.2011



Dorothea G. Yellott, Trustee
Dorothea G. Yellott, Trustee, Grantor

STATE OF Oregon, County of Klamath) ss.

This instrument was acknowledged before me on Sept. 8, 2009 by Dorothea G. Yellott, Trustee.

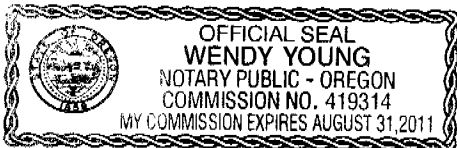


Wendy Young
Notary Public for Oregon
My Commission Expires: 8.31.2011

John Yellott, Trustee
John Yellott, Trustee, Grantor

STATE OF Oregon, County of Klamath) ss.

This instrument was acknowledged before me on Sept. 8, 2009 by John Yellott, Trustee.



Wendy Young
Notary Public for Oregon
My Commission Expires: 8.31.2011

STATE OF _____, County of _____) ss.

This instrument was acknowledged before me on _____, 2009 by Susan G. Boehner.

Notary Public for _____
My Commission Expires: _____

Dorothea G. Yellott, Trustee, Grantor

STATE OF _____, County of _____) ss.

This instrument was acknowledged before me on _____, 2009 by Dorothea G. Yellott, Trustee.

Notary Public for _____
My Commission Expires: _____

John Yellott, Trustee, Grantor

STATE OF _____, County of _____) ss.

This instrument was acknowledged before me on _____, 2009 by John Yellott, Trustee.

Notary Public for _____
My Commission Expires: _____

Alice G. Kilham, Trustee, Grantor
Alice G. Kilham, Trustee, Grantor

STATE OF Oregon, County of Jackson) ss.

This instrument was acknowledged before me on September 8th, 2009 by Alice G. Kilham, Trustee.



Tim Heim
Notary Public for Oregon
My Commission Expires: 5/18/2012

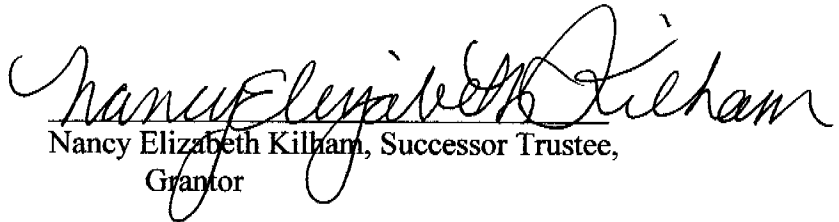
EASEMENT AGREEMENT FOR ACCESS PURPOSES

Edward Geary Kilham, Successor Trustee,
Grantor

STATE OF _____, County of _____) ss.

This instrument was acknowledged before me on _____, 2009 by Edward
Geary Kilham, Successor Trustee.


Notary Public for _____
My Commission Expires:


Nancy Elizabeth Kilham, Successor Trustee,
Grantor

STATE OF Oregon, County of Jackson) ss.

This instrument was acknowledged before me on September 8th, 2009 by Nancy
Elizabeth Kilham, Successor Trustee.

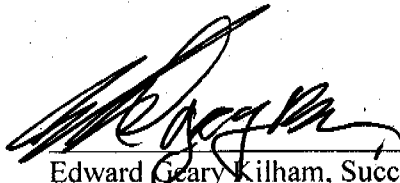



Notary Public for 5/18/2012
My Commission Expires:

GRANTEES:

Richard Geary, Grantee, individually and
Attorney in Fact for Derek Parker, Arthur
R. Geary, Sarah G. Gustafson, and Suzanne
J. Geary.

STATE OF OREGON, County of _____) ss.

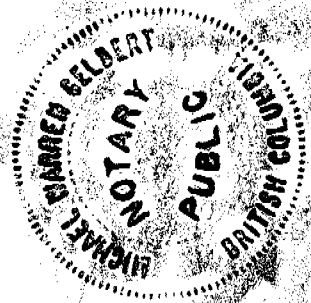
 Successor Trustee
Edward Geary Kilham, Successor Trustee,
Grantor

Province of British Columbia, City of VANCOUVER) ss.

This instrument was acknowledged before me on SEPTEMBER 5, 2009 by Edward Geary Kilham, Successor Trustee.



Notary Public for Province of British Columbia
My Commission Expires:

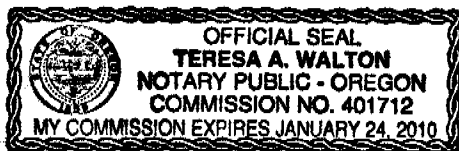


GRANTEES:

Richard Geary
Richard Geary, Grantee, individually and
Attorney in Fact for Derek Parker, Arthur
R. Geary, Sarah G. Gustafson, and Suzanne
J. Geary.

STATE OF OREGON, County of Clackamas ss.

This instrument was acknowledged before me on Sept. 8, 2009 by Richard
Geary, individually and as Attorney in Fact for Derek Parker, Arthur R. Geary, Sarah G.
Gustafson, and Suzanne J. Geary.



Teresa A. Walton
Notary Public for Oregon
My Commission Expires: Jan 24, 2010

EXHIBIT "A"

A TRACT OF LAND LOCATED IN THE SOUTH ONE-HALF OF SECTION 5, THE NORTHEAST ONE-QUARTER OF SECTION 7, AND THE NORTH ONE-HALF OF SECTION 8, ALL IN TOWNSHIP 38 SOUTH, RANGE 8 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "W&H PACIFIC" MARKING THE NORTHWEST CORNER OF LOT 1046 OF TRACT 1426, RUNNING Y RESORT, PHASE 12, 1ST ADDITION, THENCE NORTH 90°00'00" WEST 223.95 FEET TO THE EASTERLY BOUNDARY OF PROPERTY DESCRIBED IN VOLUME M03, PAGE 75105 OF THE KLAMATH COUNTY DEED RECORDS; THENCE NORTH 00°00'00" WEST ALONG SAID EASTERLY BOUNDARY, 203.56 FEET TO THE NORTHEAST CORNER OF SAID PROPERTY; THENCE NORTH 90°00'00" WEST ALONG THE NORTHERLY LINE OF SAID PROPERTY 660.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 00°00'00" EAST ALONG THE WESTERLY LINE OF SAID PROPERTY 203.56 FEET; THENCE LEAVING SAID WESTERLY LINE SOUTH 90°00'00" WEST 537.28 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF OREGON STATE HIGHWAY 140, 40.00 FEET FROM CENTERLINE WHEN MEASURED PERPENDICULAR TO SAID CENTERLINE; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING SEVEN (7) COURSES: NORTH 43°28'47" WEST 357.90 FEET; THENCE NORTH 46°31'13" EAST 10.00 FEET; THENCE NORTH 43°28'47" WEST 998.96 FEET; THENCE NORTH 46°31'13" EAST 10.00 FEET; THENCE NORTH 43°28'47" WEST 200.00 FEET; THENCE NORTH 46°31'13" EAST 20.00 FEET; THENCE NORTH 43°28'47" WEST 808.53 FEET; THENCE LEAVING SAID RIGHT-OF-WAY LINE NORTH 59°31'11" EAST 274.49 FEET; THENCE NORTH 23°26'24" WEST 48.43 FEET TO THE APPROXIMATE CENTERLINE OF THE EXISTING DRAINAGE CANAL; THENCE ALONG SAID CANAL THE FOLLOWING TWENTY-TWO (22) COURSES; NORTH 66°46'02" EAST 129.68 FEET; THENCE NORTH 81°52'26" EAST 190.38 FEET; THENCE NORTH 65°06'35" EAST 67.65 FEET; THENCE NORTH 40°17'14" EAST 40.75 FEET; THENCE NORTH 00°08'09" EAST 18.20 FEET; THENCE NORTH 30°35'28" EAST 77.80 FEET; THENCE NORTH 40°38'29" EAST 173.22 FEET; THENCE NORTH 58°24'50" EAST 300.37 FEET; THENCE NORTH 66°36'20" EAST 178.62 FEET; THENCE NORTH 55°22'24" EAST 231.44 FEET; THENCE NORTH 46°29'52" EAST 159.29 FEET; THENCE NORTH 46°32'01" EAST 445.97 FEET; THENCE NORTH 51°26'48" EAST 304.95 FEET; THENCE NORTH 54°16'06" EAST 276.26 FEET; THENCE NORTH 53°56'44" EAST 439.32 FEET; THENCE NORTH 49°56'15" EAST 46.60 FEET; THENCE NORTH 43°33'45" EAST 126.61 FEET; THENCE NORTH 44°20'01" EAST 205.14 FEET; THENCE NORTH 44°15'33" EAST 222.66 FEET; THENCE NORTH 35°48'35" EAST 35.52 FEET; THENCE SOUTH 76°43'06" EAST 98.20 FEET TO THE CENTERLINE OF THE EXISTING DRAINAGE CANAL; THENCE ALONG SAID CENTERLINE OF THE CANAL, MEANDERING IN A SOUTHEASTERLY DIRECTION, APPROXIMATELY 4156.00 FEET TO THE EASTERLY LINE OF SAID SECTION 8; THENCE LEAVING SAID CANAL AND

IN A SOUTHERLY DIRECTION ALONG SAID EASTERLY LINE, APPROXIMATELY 1760.00 FEET TO THE NORTHERLY LINE OF LOT 984, TRACT 1423, RUNNING Y RESORT PHASE 12; THENCE ALONG THE NORTHERLY LINE OF SAID TRACT 1423, RUNNING Y RESORT PHASE 12, AND THE NORTHERLY LINE OF TRACT 1426, RUNNING Y RESORT, PHASE 12, 1ST ADDITION, THE FOLLOWING SEVEN (7) COURSES: NORTH 89°32'43" WEST 180.58 FEET; THENCE NORTH 88°28'24" WEST 288.73 FEET; THENCE NORTH 88°27'11" WEST 481.07 FEET; THENCE NORTH 88°43'55" WEST 748.32 FEET; THENCE NORTH 88°17'59" WEST 451.10 FEET; THENCE NORTH 88°55'18" WEST 906.12 FEET; THENCE NORTH 87°33'57" WEST 265.36 FEET TO SAID NORTHWEST CORNER OF SAID LOT 1046 AND THE POINT OF BEGINNING.

CONTAINING APPROXIMATELY 398.06 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS PER C.S. 7216 OF THE KLAMATH COUNTY SURVEY RECORDS. (Revised November 8, 2006)

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 21, 1992
JACK A. BUTLER
2550

RENEWAL: 12-31-07

EXHIBIT B
LEGAL DESCRIPTION

Beginning at a point where the section line common to Sections 8 and 9, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, intersects the North boundary of the Klamath Lake Highway; running thence Easterly along the Northerly boundary of the Klamath Lake Highway to its intersection with the North-South 40 line of the SW1/4 of Section 9, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North along the North-South 40 line of the SW1/4 and NW1/4 of Section 9 to a point on the boundary between the Geary and Hunt properties which lies North 634 feet from the Southwest corner of Government Lot 2, Section 9, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence following the Geary-Hunt property boundary Northwesterly to its intersection with the section line common to Sections 8 and 9, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence South along the section line to the point of beginning, said parcel lying all in the W1/2 W1/2 Section 9, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPTING THEREFROM that portion thereof lying in the SW1/4 of said Section 9.

