

WC 90478-KR

2011-008324

Klamath County, Oregon



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Fee: \$52.00

**After Recording:**

Ronald S. Yockim

P.O. Box 2456

Roseburg, OR 97470

**WATERLINE & PUMPING STATION  
EASEMENT AGREEMENT**

**THIS AGREEMENT** is between, AMBROSE MCAULIFFE and SUSAN MCAULIFFE (hereinafter "MCAULIFFE") and BRIAN E. ALLEN and SHARON ALLEN (hereinafter "Allen"), collectively referred herein as "Parties."

**RECITALS:**

1. MCAULIFFE is the owner of the following described property ("McAuliffe Property") upon which is currently situated a pumping station and waterline:

Township 33 South, Range 7½ East, W.M., Klamath County, Oregon.  
Section 26: SW¼NE¼

2. ALLEN is the owner of the property following described property;

Township 33 South, Range 7½ East, W.M, Klamath County, Oregon  
Section 35: W½NE¼  
Section 35: E½ NW¼ lying East of the State Highway, less that portion deeded to Timothy Keneally recorded December 2, 1964 in book 358 at Page 38, Deed Records of Klamath County, Oregon.

3. The MCAULIFFE desires to grant to ALLEN an easement across the McAuliffe property for the purposes of a water line and pumping station to service the water rights on the ALLEN property and for operation and maintenance thereof; and.

4. The Parties desire to set forth the terms and conditions for the joint use of the water line.

**NOW THEREFORE FOR AND IN CONSIDERATION** of the mutual promises and covenants contained herein, the parties agree as follows:

1. MCAULIFFE does hereby grant unto ALLEN a perpetual nonexclusive easement for the operation and maintenance of a water pipeline (the "waterline") and pumping station as they are located on the McAuliffe Property identified above. The location of said easement extends from the point of diversion described in KBA Case No. 248 and case 248 records of the

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Water Resources Department, which point of diversion is on Fort Creek and located within the SW¼ NW¼ of Section 26 Township 33 South, Range 7.5 East, W.M.; the water line extends generally therefrom to the ALLEN property, all as more specifically depicted on the attached Exhibit A.

2. The Parties agree to pay a proportional share of the cost of repair, maintenance and operation of the water line and point of diversion. Said share shall be based upon each Party utilizing the waterline paying an equal share of the costs, each share will be based upon that Party's number of acres irrigated in any one year compared to the total number of acres irrigated by the parties. Decisions as to the repair, maintenance and operation of the point of diversion facilities shall be based upon the percentage of acres irrigated by the parties, each percentage representing one vote.

3. This easement shall be binding upon the Parties and shall run with the lands described herein and shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the respective Parties, including the Lender under any existing mortgage and its assigns. As used herein, mortgage includes deed of trust.

4. MCAULIFFE reserves the right to use the surface of the waterline and the remainder of their property for any and all purposes which do not unreasonably interfere with the exercise of the rights under this easement.

5. The Parties agree to indemnify and defend the other Party from any liability to any third person which arises in any manner out of the exercise by a Party of their rights under this easement, or out of the existence of the water pipeline and point of diversion.

6. This easement and all rights and privileges of ALLEN herein shall terminate upon the abandonment or forfeiture of all water rights served by the water pipeline serving the ALLEN property.

7. Any capital investment made by ALLEN to the easements shall not constitute ownership of the real property or improvements involved in the right-of-way easement.

8. This easement is appurtenant to the property of Allen and shall run with the land.

DATED AND EXECUTED this 14<sup>th</sup> day of July, 2011.

IN WITNESS WHEREOF the parties hereto executed this instrument, in triplicate as of the day and year first written above.

Ambrose M. McAuliffe  
AMBROSE MCAULIFFE

Brian E. Allen  
BRIAN E. ALLEN

Susan McAuliffe by Ambrose  
SUSAN MCAULIFFE  
McAuliffe P.O. A  
STATE OF OREGON )

County of Klamath )

Sharon M. Allen  
SHARON M. ALLEN

July 14, 2011

Personally appeared the above named AMBROSE MCAULIFFE, and acknowledged the foregoing instrument to be his voluntary act and deed.



Kristi L. Redd

Notary Public of Oregon

My Commission Expires: 11/16/2011

STATE OF OREGON )

) ss.

County of Klamath )

July 14, 2011

Ambrose McAuliffe as attorney-in-fact for (X)

Personally appeared the above named SUSAN MCAULIFFE, and acknowledged the foregoing instrument to be her voluntary act and deed.



Kristi L. Redd

Notary Public of Oregon

My Commission Expires: 11/16/2011



STATE OF OREGON )

) ss.

County of Klamath )

July 14, 2011

Personally appeared the above named BRIAN E. ALLEN, and acknowledged the foregoing instrument to be his voluntary act and deed.



Kristi L. Redd

Notary Public of Oregon

My Commission Expires: 11/16/2011

STATE OF OREGON )

County of Klamath                    ) ss.  
  )

July 14, 2011

Personally appeared the above named SHARON M. ALLEN, and acknowledged the foregoing instrument to be her voluntary act and deed.



Kristi L. Redd  
Notary Public of Oregon  
My Commission Expires: 11/16/2011

