

MT 92460-KR

2012-000141

Klamath County, Oregon



00112234201200001410090094

01/06/2012 03:18:57 PM

Fee: \$77.00

RECORDING COVER SHEET

ORS 205.234

This cover sheet has been prepared by the person presenting the attached instrument for recording. Any error in this cover sheet DOES NOT affect the transaction(s) contained in the instrument itself.

Reference - Escrow No. MT92460-KR
Title Order No. 0092460

Please print or type information.

1. AFTER RECORDING RETURN TO -

Required by ORS 205.180(4) & 205.238:

Name: **Summit Real Estate**

Attention: **Bob Bacon**

Address: **PO Box 347 / 31990 HWY 70**

City, ST Zip: **Bonanza, OR 97623**

2. TITLE(S) OF THE TRANSACTION(S) - Required by ORS 205.234(1)(a)

Note: "Transaction" means any action required or permitted by law to be recorded, including, but not limited to, any transfer, encumbrance or release affecting title to or an interest in real property. Enter descriptive title for the lien instrument:

Document Title(s): Shared Well Use and Maintenance Agreement

3. DIRECT PARTY / GRANTOR Names and Addresses - Required by ORS 205.234(1)(b)
for Mortgages/Liens list Borrower/Debtor

Jerry A. Enman

**15343 Cheyne Road,
Klamath Falls, OR 97603**

Jonna C. Enman

**15343 Cheyne Road
Klamath Falls, OR 97603**

Christie Robinson

**206 6th Street
Wimette, IL 60091**

4. INDIRECT PARTY / GRANTEE Names and Addresses - Required by ORS 205.234(1)(b)
for Mortgages/Liens list Beneficiary/Lender/Creditor

Dennis R. Hynes, Trustee of the J & J Family Trust,

**3939 South 6th Street, PMB 301,
Klamath Falls, OR 97603**

**5. For an instrument conveying or contracting to convey fee title, the information required by ORS 93.260:
UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO**

Name: **Dennis R. Hynes,**

Trustee of the J & J Family Trust

Address: **3939 South 6th Street, PMB 301**

City, ST Zip: **Klamath Falls, OR 97603**

6. TAX ACCOUNT NUMBER OF THE PROPERTY - Required by ORS 312.125(4)(b)(B)

TFAW

After recording, return to:
Summit Real Estate
Bob Bacon
P.O. Box 347
31990 Hwy 70
Bonanza, Oregon 97623

Between
Jerry Enman & Jonna Enman
15343 Cheyne Rd.
Klamath Falls, OR 97603

And
Christie Robinson
206 6th Street
Wilmette, IL 60091

And
J and J Family Trust
Dennis Hynes, Trustee
3939 So 6th Street PMB 301
Klamath Falls, OR 97603

Shared Well Use and Maintenance Agreement

Dennis Hynes wishes to purchase real property from Jerry A Enman and Jonna C Enman that is between Highway 39, Wong Road, and Matney way (The Property) Legal attached as Exhibit A. An essential consideration of this purchase is this contract providing that Enmans / Robinson provide supplemental ground water for irrigation of The Property during times that surface water may be unavailable.

Enmans/Robinson own a well described on the Permit to Appropriate the Public Waters of the State of Oregon, County of Klamath, Permit number G-15104 which includes The Property as part of the Place of Use (The Well). This permit describes the well as being located 1275 feet north and 75 feet east from the Southwest corner of Section 20, Township 40 South, Range 10 East, Willamette Meridian. Legal attached as Exhibit B.

This agreement between Hynes, and Enmans/Robinson, and binding upon their respective heirs and successors shall be binding until such time as The Well may be rendered impossible to use by events such as a cave in of The Well, Casing failure, or other events that reduce water flow to an unusable amount. "Well Failure" does not include mechanical failure of the pump, motor, electrical system, or any other above ground portion of the system for conveying water to the "C" canal and "No. 5" drain.

For the duration of this contract, The well owners, will be solely responsible for delivering irrigation water from the well to a point on the "No. 5" drain upstream from The Property at such times that surface water supplies may be restricted.

The Well Owners own lands near The Well which may have an inferior surface water right. The well owner's reliance on The Well for supplemental irrigation of these lands shall be interpreted as proof of the well owners maintaining satisfactory condition of The Wells power, pumping, and conveyance systems. The well owners will bear the costs of such maintenance. Compensation for this is included in the sale of the Property.

A "claim of beneficial use" has been filed with the Oregon Water Resources Department for permit #G- 15104, which includes all lands that are "places of use" of The Well. All additional costs incurred in the process of getting this permit processed to a Water Right shall be The well owners responsibility unless such required costs are site specific. During any times there may be insufficient water from The Well to serve The Property and the well owners land, the available water will be allocated equally per acre.

Tax lot 4010-02000-00400-000 Legal attached as Exhibit C, adjoins The Property and is included as a "Place of Use" in the Permit. When surface water is unavailable and The Property does not require the full capacity of its' pumps, water will be provided to this property through the conveyance system on The Property for the cost of power plus 10%.

Whenever The well owners provide water to The Property during surface water shortage, owners of the property shall pay The well owners actual cost for electricity or fuel used to convey water to The Property. The Well will be used for both properties, therefore the power costs must be divided in proportion to the water used as measured by the flow meters on the respective properties, which are required by the permit. Each party shall have the right to inspect the other party's flow meters. Any time it is mutually agreeable the costs may be split on a per acre basis. Payment is due within 30 days of the well owners providing proof of cost.

All uses of The Well are subject to all rules under the Permit and subsequent Water Right Certificate. To facilitate provision of the correct flow from The Well owners of The Property will notify the well owners or their representative of any substantial changes of their rate of use of ground water during the day prior to the change.

If The Well should fail as previously described the parties might mutually agree to share costs of a new well or owners of The Property may select some alternative. If the well owners should elect to replace The Well at their own expense the new well will be entirely exempt from any provisions of this contract. If the owners of The Property elect to drill their own well the well owners shall cooperate in providing consent necessary to add a point of appropriation to the water right.

Another essential consideration in the sale of The Property is agreement that the well

owners may elect to use the acreage base of The Property in any programs in which a third party pays ground water right holders to use ground water instead of surface water. The well owners will have the responsibility of applying for such programs and owners of The Property will provide consents necessary to enroll The Property and if payments are made to them from the Program shall pay all such proceeds to the well owners within 30 days of receiving them. If such programs require that water for The Property come exclusively from the "#5" drain while the canal system is charged with surface water, owners of The Property will not be required to participate. All proceeds from any such programs will belong to the well owners. During times that The Property is enrolled in such programs The well owners will be responsible for all electrical or fuel costs that arise from pumping the well regardless of the availability of surface water.

If owners of "The Property" fail to meet their obligations of consent and/or payment, The well owners will continue to provide supplemental groundwater for at least sixty days after such payment is due, then will have no further obligation to provide water for The Property until such breach of contract is remedied by payment of all sums owed for pumping power or groundwater substitution programs. If the breach is due to a lack of consent to enroll The Property in such programs, the owners of "The Property" will owe the well owners the actual amount that inclusion of The Property would have provided. All payments not made within thirty days will accrue interest at the rate of 1 1/2% per month.

The well owners and owners of The Property must cooperate to be available to each other by phone as needed. If the well owners know they or their representative will not be available during any days of irrigation season they will notify the owners of The Property. If owners of The Property are unable to contact the well owners through numerous attempts they may elect to have an individual who is familiar with the well owners system operate the well to provide needed water to The Property until the well owners resume operation. Under these conditions there can be no claim of trespass. This exemption from trespass includes unscheduled daylight inspection of flow meters provided that the person inspecting the meters has been approved by the owner of the property where the meter is located or that person is an owner of the well owners property or The Property.

This contract is the entire agreement between the parties in regards to ground water. Any changes must be approved in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

January 5, 2012

Jerry A Enman

FIRST PARTY

Jonna C. Enman

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on January 5, 2012
by Jerry A. Enman & Jonna C. Enman

This instrument was acknowledged before me on _____
by _____
as _____
of _____



Kristi L. Redd
Notary Public for ~~Illinois~~ Oregon
My commission expires 11/16/2015

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

Jand J Family Trust

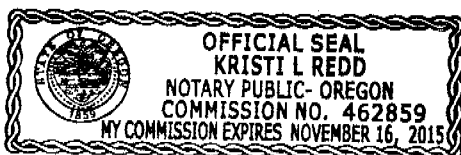
x Dennis R. Hynes (Trustee)

SECOND
FIRST PARTY

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on January 5, 2012
by _____

This instrument was acknowledged before me on January 5, 2012
by Dennis R. Hynes
as Trustee
of Jand J Family Trust



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Kristi L. Redd
Notary Public for Oregon
My Comm. Expires: 11/16/2015

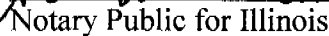
~~My commission expires~~

January 3, 2012

Christie M. Rohi

Christie M. Robinson

of



My commission expires 5-18-12

EXHIBIT A

LEGAL DESCRIPTION

The NW1/4 of the NE1/4, the SW1/4 of the NE1/4, and all that portion of the NW1/4, the NE1/4 of the SW1/4, and the NW1/4 of the SE1/4, lying Northeasterly of the Northeasterly right of way line of Highway 39 in Section 20, Township 40 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, EXCEPTING THEREFROM a parcel of land situated in the Northwest one-quarter of Section 20, Township 40 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 5/8" iron pin marking the Northwest corner of said Section 20; thence North 89 degrees 45' 24" East, along the North line of said Section 20, 2180.17 feet; thence South 00 degrees 14' 35" East, 500.00 feet; thence South 89 degrees 45' 24" West parallel to the North line of said Section 20, 1930.22 feet to a point on the Northeasterly right of way of Oregon State Highway 39; thence North 33 degrees 46' 40" West, along the Northeasterly right of way line of said Oregon State Highway 39, 452.68 feet to a point on the West line of said Section 20; thence North 00 degrees 10' 54" West along the West line of said Section 20, 122.67 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying within the Zuckerman Road right of way.

ALSO EXCEPTING THEREFROM the U.S.B.R. C-9 lateral.

AND ALSO EXCEPTING THEREFROM any portion lying within the State Highway 39 right of way.

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EXHIBIT B

Real property in the County of Klamath, State of Oregon, described as follows:

S 1/2 SW 1/4 of Section 20, Township 40 South, Range 10 East of the Willamette Meridian. Property Tax Id No. R98691

A tract of land situated in the N 1/2 SW 1/4 and NW 1/4 SE 1/4 of Section 20, Township 40 South, Range 10 E.W.M., Klamath County Oregon, being more particularly described as follows:

Beginning at a point on the West line of said Section 20, from which the Northwest corner of said Section 20, as marked by a 5/8 inch iron pin, bears Northerly 2706.79 feet; thence S 73°12'53" E 31.33 feet; more or less, to a 5/8 inch iron pin on the Easterly right of way line of Cheyne Road, thence continuing S 73°12'53" E 1917.53 feet to 5/8 inch iron pin on the Southwesterly right of way line of the USBR No. 5 Drain (Henley Drain) thence N 55°44' E 25.00 feet to the centerline of said Drain; thence continuing Southeasterly, along the centerline of said Drain to the Southwesterly right of way line of the Southern Pacific Railroad; thence Southeasterly, along said Southern Pacific Railroad right of way line, to the South line of the NW 1/4 SE 1/4 of said Section 20; thence Westerly along said South line, to the Southwest corner of the NW 1/4 SE 1/4 of said Section 20; thence continuing Westerly along the South line of the N 1/2 SW 1/4 of said Section 20 to its intersection with the Northerly right of way line of the "C" Canal; thence Northwesterly along the said Northerly right of way line of said "C" Canal to the West line of the N 1/2 SW 1/4; thence Northerly to the point of beginning. Property Tax Id No. R98735

EXCEPTING from all the above described properties that portion conveyed in Bargain and Sale Deed recorded November 1, 1993 in Volume M93, page 28722, Deed records of Klamath County, Oregon.

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EXHIBIT C

LEGAL DESCRIPTION

A parcel of land situated in the Northwest one-quarter of Section 20, Township 40 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 5/8" iron pin marking the Northwest corner of said Section 20; thence North 89° 45' 24" East, along the North line of said Section 20, 2180.17 feet; thence South 00° 14' 35" East, 500.00 feet; thence South 89° 45' 24" West parallel to the North line of said Section 20, 1930.22 feet to a point on the Northeastly right of way of Oregon State Highway 39; thence North 33° 46' 40" West, along the Northeastly right of way line of said Oregon State Highway 39, 452.68 feet to a point on the West line of said Section 20; thence North 00° 10' 54" West along the West line of said Section 20, 122.67 feet to the point of beginning.

EXCEPTING THEREFROM any portion lying within the Zuckerman Road right of way.

ALSO EXCEPTING THEREFROM any portion lying within the State Highway #39.

AND ALSO EXCEPTING THEREFROM that portion lying within the USBR C-9 Lateral right of way.