

WTC 92937-K2

2012-003911

Klamath County, Oregon



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When recorded return to:
RLF Running Y Ranch, LLC
619 N. Cascade Ave., Suite 200
Colorado Springs, CO 80903

04/13/2012 03:21:17 PM

Fee: \$77.00

RECIPROCAL ACCESS AND IRRIGATION EASEMENT AGREEMENT

This **Reciprocal Access and Irrigation Easement Agreement** (the "Easement Agreement") is entered into as of ~~March~~ ^{April} 5, 2012, by and between RLF Running Y Ranch, LLC, a Colorado limited liability company ("RLF"), and Caledonia Properties, LLC, an Oregon limited liability company ("Caledonia"). Caledonia and RLF shall be collectively referred to herein as the "Parties," and each a "Party."

WHEREAS, Caledonia is the owner of that certain real property located in Klamath County, Oregon, legally described on **Exhibit A** attached hereto and incorporated herein by this reference (the "Caledonia Property");

WHEREAS, RLF is the owner of that certain real property located in Klamath County, Oregon, legally described on **Exhibit B** attached hereto and incorporated herein by this reference (the "RLF Property"; the RLF Property and the Caledonia Property are sometimes collectively referred to as the "Properties" or individually as a "Property");

WHEREAS, each Party desires to establish and create a non-exclusive irrigation easement over and across existing irrigation infrastructure on a portion of their respective Properties, and to establish and create certain non-exclusive access easements to access such irrigation infrastructure, in the locations and on the terms and conditions set forth in this Easement Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Easements.

(a) RLF hereby grants to Caledonia, for the benefit of and appurtenant to the Caledonia Property: (i) a permanent non-exclusive irrigation easement for running irrigation water through the existing irrigation ditches and infrastructure, and for maintenance and repair of the existing irrigation ditches and infrastructure, to the extent reasonably necessary for farming and associated agricultural uses, over and across that portion of the RLF Property described and depicted on **Exhibit C** attached hereto and incorporated herein by this reference; together with (ii) permanent non-exclusive access easements for access to the irrigation ditches for purposes of this Easement Agreement, over and across existing roadways on the RLF Property.

(b) Caledonia hereby grants to RLF, for the benefit of and appurtenant to the RLF Property: (i) a permanent non-exclusive irrigation easement for running irrigation water through the existing irrigation ditches and infrastructure, and for maintenance and repair of the existing irrigation ditches and infrastructure, to the extent reasonably necessary for farming and associated agricultural uses, over and across that portion of the Caledonia Property described and depicted on **Exhibit C** attached hereto and incorporated herein by this reference; together with (ii) permanent non-exclusive access easements for access to the irrigation ditches for purposes of this Easement Agreement, over and across existing roadways on the Caledonia Property.

(c) The easements set forth in Sections 1(a) and 1(b) above are collectively referred to as the "Easement" and the respective portions of the Properties as the "Easement Area." The Easement Area

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includes any ditch roads which run generally along portions of the existing irrigation ditches. The easements granted hereunder may also be used and exercised by a Party's respective employees, agents, tenants, licensees, representatives, contractors and consultants. Each Party is expressly prohibited from entering onto or accessing any other portion of the other Party's Property, including for the purposes of maintaining, improving, or repairing the Easement Area.

2. Non-Exclusivity of Rights; Non-Interference. The rights granted to each Party hereunder are non-exclusive. Each Party retains all rights to utilize the Easement Area on its portion of the Property for any and all purposes; provided, however, neither Party shall grant to any other person any surface or subsurface rights which materially conflict with or interfere with the use of the Easement Area by the other Party. Specifically, and without limiting the foregoing, each Party agrees not to: (i) prohibit the other Party's access to, through or across the Easement Area; or (ii) construct or install gates, fences or other improvements which block the other Party's access to the Easement Area or passage over or across the Easement Area without providing the other Party the means (e.g., keys) through which to achieve access.

3. Maintenance; Improvement of Easement Area. The Easement Area consists of existing irrigation ditches and related infrastructure, and dirt roads. Each Party shall have the right to maintain the Easement Area, including ditch-cleaning, spraying and removing weeds, and grading roads, in generally the same condition as on the date of this Agreement.

The maintenance costs that are reasonably and fairly allocable to the Easement Area shall be determined in good faith by RLF and Caledonia, and paid to the Party completing maintenance within thirty (30) days of request therefore. The duty and obligation to maintain and repair the Easement Area, and the costs thereof, shall be shared pro rata based on acreage within the Properties.

This Agreement imposes no obligations on any Party to replace any improvements or infrastructure within the Easement Area. Neither Party shall have the right to charge the other Party for replacement of any infrastructure without the other Party's prior consent, which consent shall not be unreasonably withheld.

4. Obligations to Run with the Land. The Easement, the rights and obligations of the Parties hereto under the terms and conditions hereof, and the terms, rights, conditions, restrictions and limitations contained herein with respect thereto, shall burden and run with the Easement Area, shall be appurtenant to the Properties, and shall inure to the benefit and use of the Parties, and any successor owner or owners of the Properties (or any portion thereof) and its and their successors and assigns.

5. No Termination. The Easement shall not be terminated or extinguished, whether by nonuse, abandonment, or for any other reason. No rights against either Party and adverse to the Easement Area shall be acquired by adverse possession or prescription as a result of or arising out of the occupancy, possession, destruction or blockage of the Easement or any portion thereof, or by reason of any other act of any person or entity following the recordation of this Easement Agreement.

6. Enforcement. Enforcement of this Easement Agreement may be by legal proceedings against any Party or other owner or person violating any restriction, covenant, condition or agreement herein contained, either to restrain or enjoin such violation, obtain specific performance, or recover damages; provided, however, that no such covenant or any such similar right or privilege may be enforced by legal action or otherwise by any persons whatsoever except the owners of all or any portion of the Properties and their respective successors and assigns. This Easement Agreement is not intended to, nor will it, create any rights or prescriptive rights in the public to the Easement Area.

7. Compliance with Laws; Indemnification. All use of and maintenance of the Easement Area shall be conducted and completed in compliance with all applicable laws and regulations. Each owner of any portion of the Properties shall indemnify and hold the owners of the remainder of the Properties harmless from and against any and all claims, costs, damages, and liability (including costs and attorneys' fees) arising out of any violation of this Easement Agreement or applicable laws by the first party (and their agents, guests, invitees, or assigns), any actions by the first party (and their agents, guests, invitees, or assigns) under this Easement Agreement, or from any bodily injury suffered or property damage occurring as a result of the acts of the first party (and their agents, guests, invitees, or assigns).

8. Payment of Taxes. Each owner shall pay all real property taxes and assessments applicable to its portion of the Property. If any improvements made to the Easement Area are separately assessed by any taxing authority with jurisdiction, the Party that constructed such improvements shall pay such taxes and assessments.

9. Entire Agreement. In the event of any controversy, claim, or dispute relating to this Agreement or the breach thereof, the prevailing party shall be entitled to recover from the non-prevailing party the prevailing party's costs and expenses, including, without limitation, reasonable attorneys' fees and costs.

10. Severability. In the event any term or provision of this Agreement shall be held to be unenforceable for any reason whatsoever by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other term or provision hereof.

11. No Waiver. The waiver by any owner of a breach of any provision of this Easement Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of the same or any other provision hereof.

12. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be regarded as an original and all of which when taken together shall constitute one and the same document.

13. Governing Law. This Agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of Oregon.

14. Further Assurances. From and after the execution, delivery and recordation of this Agreement, each Property owner shall cooperate with the other Property owners in taking such actions, executing such instruments and granting such rights as may be reasonably necessary to effectuate the purposes of the parties in entering into this Easement Agreement and to perfect the rights granted hereunder.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the Parties hereby execute this Easement Agreement as of the date first above written.

RLF Running Y Ranch, LLC,
a Colorado limited liability company

By: [Signature]
Name: Aaron M. Patsch
Its: Authorized Representative

STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 5th day of April, 2012, by Aaron M. Patsch as Authorized Representative of RLF Running Y Ranch, LLC, a Colorado limited liability company.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: Jan 11, 2015.

[SEAL]

Caledonia Properties, LLC,
an Oregon limited liability company

By: [Signature]
Name: Mark Campbell
Its: Member

STATE OF Oregon)
) ss.
COUNTY OF Klamath)

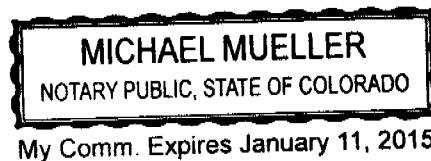
The foregoing instrument was acknowledged before me this 13th day of April, 2012, by Mark Campbell as Member of Caledonia Properties, LLC, an Oregon limited liability company.

Witness my hand and official seal.

[Signature]
Notary Public

My commission expires: 11/16/2015.

[SEAL]



List of Exhibits:

- | | | |
|------------------|---|---|
| Exhibit A | - | Caledonia Property |
| Exhibit B | - | RLF Property |
| Exhibit C | - | Description and Depiction of the Easement Area on the Properties |

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

Parcel 1 of Land Partition 16-11, a replat of parcel 3 of Minor Land Partition No. 81-34, located in the SW1/4 of Section 15, Section 22, the SW1/4 of Section 23, the NW1/4 & SW1/4 of Section 26 and the NE1/4 of Section 27, Township 38 South Range 8 East of the Willamette Meridian, Klamath County, Oregon, duly recorded January 19, 2012 in Volume 2012-000492, Microfilm Records of Klamath County, Oregon.

PARCEL 2:

Parcel 2 of Land Partition 04-11, a replat of parcel 1 of LP 69-06, SE 1/4 Section 9, E1/2 Section 16, NW1/4 and S 1/2 Section 15 and N 1/2 Section 22. Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, OR. Recorded 6-1-2011 in volume 2011-006707.

EXHIBIT "B" **LEGAL DESCRIPTION**

PARCEL 1:

A tract of land situated in Sections 6 and 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the Northerly boundary of State Highway 140 West 658 feet North (610 feet on Klamath County Survey 4035) of the East-West centerline of said Section 7; thence following the Caledonia-Wocus division line South 88° 04' 41" West to the Southerly boundary of said highway which is the True Point of Beginning, then continuing to follow the Caledonia-Wocus division line South 88° 04' 41" West to a stone marked with across, mentioned as the "place of beginning" in Deed Volume 47, page 331, Deed Records of Klamath County, Oregon, located at the Easterly end of the cross-dike between the Caledonia and Wocus Tracts, which point is 2621 feet West of the section line common to sections 7 and 8, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North 24° East 100 feet; thence North 66° West 1050 feet, more or less, to the centerline of the Caledonia Canal in the SE1/4 of the NW 1/4 of Section 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence Northerly along the centerline of said Caledonia Canal to the intersection of said centerline with the Southerly boundary of State Highway 140 West; thence Southeasterly along the Southerly boundary of said highway to the true point of beginning.

PARCEL 2:

Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon.

Section 8: All that portion of said section lying South and West of the Orindale Draw State Highway.

Section 9: That portion of the S 1/2 lying Southerly of the South Right of way line of Lake of the Woods Highway 140

Section 15: that portion of the SW1/4 SW1/4 lying Westerly of the Lake of the Woods State Hwy 140

Section 16: lying Westerly of the West Right of way line of Lake of the Woods Highway 140

Section 17: E1/2, NW1/4, N1/2 SW1/4, SE1/4 SW1/4 and Lot 2

Section 18: SE1/4 SE1/4; N1/2 NE1/4, SE1/4 NE1/4 all those portions of the N1/2 SE1/4, SW1/4 NE1/4, NE1/4 NW1/4, SE1/4 NW1/4 lying North and East of Government Meander line.

Section 20: The portion of SE1/4 North of Government Meander line: portion of W1/2 North and East of Government Meander line, and NE1/4

Section 21: All

Section 22: That portion lying South and West of the Southerly line of State Highway 140

Section 26: The W1/2 Lying Westerly of State Highway 140

Section 27: All, except that portion thereof in State Highway 140 and that portion lying Northeasterly of State Highway 140

Section 28: SE1/4 SE1/4, N1/2 SE1/4, E1/2 NW1/4, and the portion of W1/2 NW1/4 North of Government Meander line through said Section 28; NE1/4

Section 29: The portion of NE1/4 NE1/4 North of Government Meander line through Section 29.

Section 34: SE1/4, E1/2 SW1/4, NW1/4, N1/2 NE1/4, SW1/4 NE1/4

Section 35: All that portion of said section lying South and West of the Orindale Draw State Highway.

Section 36: All that portion of said section lying South and West of the Orindale Draw State Highway.

PARCEL 3:

Those portions of Sections 6 and 7, Township 38 South Range 8 East of the Willamette Meridian, within the following described boundaries:

Beginning at the section corner common to Sections 7, 8, 17 and 18; thence North along the section line common to Sections 7 and 8 to Southerly boundary of the Klamath Lake Highway; thence Northwesterly along the Southerly boundary of the Klamath Lake Highway to its intersection with a line parallel to the East-West center line of Section 7 and North 658 feet of said line (said line being the division line between the Caledonia and Wocus Tracts); thence following said Caledonia-Wocus division line Westerly to a point on the Easterly end of the crossdike between the Caledonia and Wocus Tracts, which point is 2621 feet West of the Section line common to Sections 7 and 8; thence South 24° West 100 feet; thence North 66° West 1000 feet, more or less, to the Westerly end of the crossdike; thence North 24° East 200 feet; thence North 66° West 50 feet to the

center of the Caledonia Canal in the SE1/4 NW 1/4 of Section 7; thence Northerly along the center line of said Caledonia Canal to intersection of said center line with the West boundary of Lot 3, Section 6, Township 38 South, Range 8 East of the Willamette Meridian; thence South along the West boundary of Lot 3, continuing South along the West boundary of Lot 4 in said Section 6; thence continuing South along the West boundaries of Lots 4 and 5 in Section 7, Township 38 South, Range 8 East of the Willamette Meridian, to the intersection of the West boundary of Lot 5 with the Easterly boundary of the Old State Highway #421 in S 1/2 NW 1/4 of Section 7; thence Southwesterly along said Easterly boundary of the old State Highway #421 to its intersection in Lot 6 with the East line of the W1/2 NW 1/4 SW1/4 of Section 7; thence South 0° 16' West 973 feet, more or less, to the South line of NW1/4 SW1/4 of Section 7, which point is 660 feet East of the Southwest corner of

Lot 6; thence South 14° 58' East 403.9 feet to a meander point in Lot 7, Section 7; thence following the Government Meander line Southerly and Easterly to the intersection of said Meander Line with the South line of Section 7; thence East along the South line of Section 7 to the point of beginning.
(Legal Description Continued)

SAVING AND EXCEPTING from any of the above described real property any portions lying within the boundaries of the State Highway.

ALSO SAVING AND EXCEPTING that portion conveyed to State of Oregon, by and thru its State Highway Commission by Deed recorded September 12, 1967 in Volume M67 at page 7067, Microfilm Records of Klamath County, Oregon.

PARCEL 4:

A parcel of land located in Section 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the quarter section corner on the East line of Section 7, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon; thence North 658 feet thence West 2621 feet to a stone marked with a cross which stone is the place of beginning; thence South 24° West 100 feet; thence North 66° West 1000 feet; thence North 24° East 200 feet; thence South 66° East 1000 feet; thence South 24° West 100 feet to the place of beginning.

PARCEL 5:

Township 39 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon. Section 2: N1/2 NE1/4 and SW1/4 NE1/4

EXHIBIT "C"

LEGAL DESCRIPTION

A-Line:

Commencing at the diversion point from Upper Klamath Lake in the NW1/4 of Township 38 South, Range 8 East of the Willamette Meridian, Klamath County Oregon, Section 7 and following a southeasterly directions through the N1/2 SE1/4 of Section 7 and through the S1/2 of Section 8 into the SW1/4 of Section 9 continuing a southeasterly direction into and through the E1/2 of Section 16. The canal continues into the SW1/4 SW1/4 of Section 15 and crosses HWY 140 flowing in an Easterly direction until continuing its southeasterly flow through the N1/2 NW1/4 and NW1/4 NE1/4 of Section 22 and turning south through SW1/4 NE1/4 and W1/2 SE1/4 of Section 22 and W1/2 NW1/4 Section 27. The canal then continues its southeasterly flow into SE1/4 NW1/4 and NE1/4 SW1/4 of Section 27 then ending in the NW1/4 SW1/4 of Section 27.

B-Line:

Commencing in the SW1/4 SW1/4 of Section 17 and flowing in an easterly direction through the southern end of Section 16 and ending in the NW1/4 NW1/4 of Section 22.

C-Line:

Commencing in the SE1/4 SW1/4 of Section 20 and flowing in an easterly direction through the N1/2 S1/2 of Section 21 and ending in the NW1/4 SE1/4 of Section 22.

Backshore:

Commencing in the NE1/4 SE1/4 of Section 28 and flowing in a northwesterly direction through NW1/4 of Section 28, NE1/4 NE1/4 of Section 29, through Section 20, Section 18, and ending directly before the Fish Screen in the SW1/4 NW1/4 of Section 7.

Division:

Commencing in the NW1/4 SE1/4 of Section 16 and flowing in a southerly direction through the southern half of Section 16, crossing over the B-Line canal, and ending in the NW1/4 SE1/4 of Section 21 at the C-Line canal.

EXHIBIT "C"
Depiction

