

After recording, return to:

Wood River District Imp. Co.
PO Box 503
Fort Klamath OR 97626

2012-006883

Klamath County, Oregon



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06/22/2012 09:36:44 AM

Fee: \$52.00

WELL WATER SYSTEM EASEMENT

DATED: June 15, 2012

FROM: Robinson Best LLC
Attn: Lee Traynham
P.O. Box 769
Arbuckle, CA 95912

"GRANTOR"

TO: Wood River District Improvement Company
P.O. Box 503
Fort Klamath, OR 97626

"GRANTEE"

RECITALS:

1. Grantee is a corporation organized and operated under the provisions of ORS 554.
2. Grantee requires the temporary and permanent use of certain real property owned by Grantor in order to construct and operate a well and water delivery system ("well system" used hereinafter); and
3. Grantor desire to cooperate with Grantee and to grant the necessary easements for the well system; and
4. Grantee will compensate Grantor for providing said easements by cash payment as provided herein.

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

1. **Grant of Easement.** Grantor hereby grants to Grantee, its successors and assigns, the following easement to construct, maintain and operate the well system in, under and through the property of Grantor as set forth herein. The easement includes:

1.1 A perpetual exclusive easement to construct, maintain and operate a well, water delivery system in, under and through that portion of Grantor's property described as: a one acre parcel within the NW¼NE¼ Section 16, Township 3 South, Range 7 East, W.M., being that one

acre that's center point is situated 270 feet south and 1900 feet West from the NE corner of Section 16 along with an easement to access the well location from State Highway 62 and such additional land as necessary to connect a ditch or pipeline to Grantee's existing water delivery system (the "Easement Premises"); and

1.2 A temporary construction easement over Grantor's land in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16 (the "Work Area").

2. **Right to Use Water.** The Grantee shall have sole responsibility for obtaining the right to use water conveyed across the easement from the Oregon Department of Water Resources ("WRD"). Grantor agrees to cooperate with the Grantee in obtaining such water rights from WRD. The Grantee agrees to comply with the terms and conditions of the water right obtained. The Grantee shall have the exclusive right to the use of the water from the well system and conveyed across the easement during the term of this easement.

3. **Consideration.** In consideration for this easement, the Grantee agrees to pay Grantor \$10.00, the receipt of which is hereby acknowledged.

4. **Grantee's Use.** Grantee shall use the Easement Premises only for the purpose of constructing, maintaining, repairing, removing and operating the well system for the purpose of supplying district members with irrigation water within the boundaries of the Wood River District Improvement Co. The road right-of-way on the Easement Premises shall only be used to access the Easement Premises for purposes of construction, inspection, maintenance and repair. Grantee shall at its expense construct any water pipeline below the finished grade of the Easement Premises at a depth and in a manner sufficient to permit farming on Grantor's property on or near the easement without damage to the water pipeline. Grantee shall have sole and exclusive responsibility for the construction, maintenance, repair, removal and operation of the well system permitted by this easement, and Grantor shall have no obligations to Grantee other than those obligations specifically set forth herein. Grantee shall expeditiously repair any damage to the surface of the easement, Work Area, and the remainder of Grantor's property resulting from the construction, maintenance, repair, replacement, inspection, removal or operation of the well system. Grantee shall use due care to avoid damage, stress or slippage to utility poles, buried utility lines and paved areas, now existing or hereafter installed on Grantor's property. Grantee shall fence the easement area.

5. **Grantor's Use.** Grantor reserves the right to use the surface of the Easement Premises and Work Area, and the remainder of its property, for any and all purposes which do not unreasonably interfere with the exercise by Grantee of its rights under this easement.

6. **Access.** Grantee shall have the right, to the extent reasonably necessary to obtain access to the Easement Premises. If any gate is installed, and Grantee installs a lock, a key to the lock shall be maintained by Grantee and an additional key shall be provided by the Grantee for the use of Grantor and its Lessee.

7. **Taxes and Assessments.** Grantee shall be liable for all taxes and assessments, if any, against the easement including all improvements located on the easement.

8. **Indemnification.** Grantee agrees to indemnify and defend Grantor from any liability to any third party which arises in any manner out of the exercise by Grantee of its rights under this easement, or out of the existence of the well system.

9. **No Warranty.** Grantee accepts the Easement Premises "As Is." Grantor makes no warranty or guarantee of water quantity or quality or of the stability or condition of any portion of the easement and shall not be responsible for conditions or changes resulting from normal farming activities on adjoining land.

10. **Term.** Unless terminated as provided below, this Easement shall be perpetual.

10.1 **Termination.** This easement and all rights and privileges of Grantee hereunder shall automatically terminate upon the occurrence of any of the following events:

(a) Grantee's failure to complete construction of the well system on the easement within ten years of the date hereof:

(b) Grantee's failure to perform any of Grantee's obligations under this easement within 30 days after written notice from Grantor specifying the obligation the Grantee has failed to perform; or, if Grantee's obligation cannot be performed within 30 days, failure of Grantee within such time to commence performance of its obligations in good faith and with reasonable diligence.

10.2 **Affidavit of Termination.** If this easement is automatically terminated for any of the reasons specified in this paragraph 12, Grantor may record an affidavit in the public records of Klamath County specifying that this easement, and all of Grantee's right and privileges hereunder, have been terminated, which shall be conclusive proof of termination as against Grantee.

11. **Binding Effect.** This easement shall be binding upon the parties and their successors and assigns and shall run with the land.

12. **Attorneys Fees.** In the event of any suit or action to enforce this Agreement, the prevailing party shall be entitled to, in addition to the statutory costs and disbursements, reasonable attorneys fees and expert fees to be fixed by trial and appellate courts from the time such action is filed.

13. **Severability.** If any provision or part of this Easement is for any reason determined by a court of competent jurisdiction to be invalid or unenforceable, then such part shall be severed from this agreement and the remainder of the agreement shall remain fully enforceable.

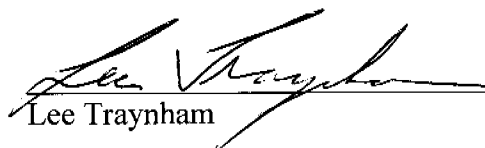
14. **Entire Agreement.** This document is the entire, final, and complete agreement of the parties and supersedes and replaces all prior or existing written or oral agreements, or both, between the parties or their representatives relating to the property.

15. **Effective Date.** The effective date of this agreement is June 15, 2012.

DATED AND EXECUTED on the date first above written, at Klamath County, Oregon.

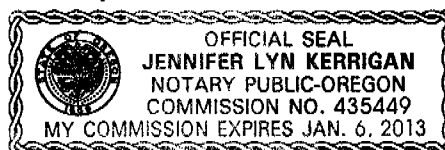
GRANTOR

GRANTEE

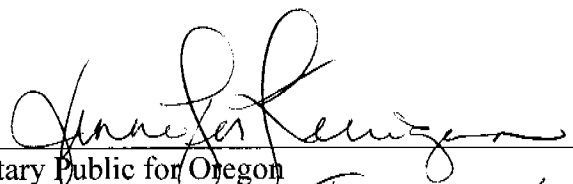

Lee Traynham

Wood River District Improvement Co.
By:

STATE OF OREGON)
)ss.
County of Jackson)



On this 15th day of June, 2012, personally appeared before me the above-named Lee Traynham, and acknowledged the foregoing agreement has been duly approved by Lee Traynham that he has full authority to execute said agreement, and that his action in executing this agreement is his voluntary act and deed.


Notary Public for Oregon
My Commission Expires: January 6, 2013

STATE OF OREGON)
)ss.
County of _____)

On this _____ day of June, 2012, personally appeared before me the above-named _____, and being first duly sworn did say that the is _____ and that he signed the foregoing agreement on behalf of Wood River District Improvement Co. and does hereby represent that he is fully authorized to act on their behalf.

Notary Public for Oregon
My Commission Expires: _____