

2013-004253

Klamath County, Oregon

FIRST PARTY NAME AND ADDRESS:

Jeffrey S. Derr  
346 Cherry Avenue  
Chimacum, WA 98325



00134611201300042530030038

04/22/2013 11:49:07 AM

Fee: \$47.00

SECOND PARTY NAME AND ADDRESS:

Michael L. Fitzpatrick  
Alice Fitzpatrick

Albany, OR 97321

AFTER RECORDING RETURN TO:

Neal G. Buchanan, Attorney at Law  
435 Oak Avenue  
Klamath Falls, OR 97601

WATERWAY EASEMENT

THIS AGREEMENT made and entered into the 1st day of April ~~February~~, 2013, by and between Jeffrey S. Derr hereinafter called the First Party and Michael L. Fitzpatrick and Alice Fitzpatrick hereinafter called the Second Party;

WITNESSETH:

A. WHEREAS, First Party is owner of certain real property located in the County of Klamath, State of Oregon, legally described as follows, to-wit:

Lot 138, THIRD ADDITION TO SPORTSMANS PARK, according to the official plat on file in the office of the County Clerk of Klamath County, Oregon.

upon which is located a residence; and First Party has the right to enter into the agreement hereinafter described relative to the said real estate; and

B. WHEREAS, Second Party has or will deed to First Party certain real property located in the County of Klamath, State of Oregon, legally described as follows, to-wit:

Lot 136, THIRD ADDITION TO SPORTSMANS PARK, according to the official plat on file in the office of the County Clerk of Klamath County, Oregon.

upon which is located a certain well, which is generally described as being in the SW corner of Lot 136, approximately 27 feet North of the southerly boundary and 32.5 feet East of the Westerly boundary thereof, which said well is to serve the residence of First Party located on Lot 138; and

C. WHEREAS, Second Party is owner of certain real property located in the County of Klamath, State of Oregon, legally described as follows, to-wit:

Lots 137, THIRD ADDITION TO SPORTSMANS PARK,  
according to the official plat thereof on file in  
the office of the County Clerk of Klamath County, OR.

and has the right to enter into the agreement and to grant the easement hereinafter described relative to the said real estate;

D. WHEREAS, the said well is not at this time the subject of a water right for irrigation uses.

NOW THEREFORE, in view of the premises, and in consideration of good and valuable consideration by each of the parties to the other paid, receipt of all of which is hereby acknowledged, they agree as follows:

1. Second Party hereto grants an easement <sup>A.M.F.</sup> ~~ten~~ <sup>Five</sup> feet in width on either side of the piping as it currently exists, over and across that certain real property described in paragraph C hereinabove, to go on said property for the purposes of installation, repair and maintenance of piping if such replacement should become necessary to allow the continued enjoyment of the water from the well located on Lot 136 (described in paragraph B). In the event that such repair or replacement of piping is necessary, First Party in completing such installation, repair or maintenance agrees to restore the surface of the servient property as nearly as possible to the same condition as it was in before such installation, repair or maintenance commenced.

2. Maintenance of the easement herein granted and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of First Party. Should any party hereto cause damage to the easement because of negligence or abnormal use, said party shall be responsible for the cost of repair of said damage at that party's sole expense.

3. This agreement and the easement herein granted shall be perpetual. This agreement shall be appurtenant to the real property hereinabove described (in Paragraph A) and shall run with the land.

4. This agreement may be modified only in writing executed by the owners of all parcels affected by the within agreement.

5. This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, successors and assigns.

In construing this instrument and where the context so requires, words in the singular include the plural; the masculine includes the feminine and the neuter; and generally, all changes shall be made or implied in order that this instrument shall apply both to individuals and to corporations.

IN WITNESS WHEREOF, the parties hereto have subscribed this instrument effective on the day and year set forth hereinabove.

FIRST PARTY:

Jeffrey S. Derr  
Jeffrey S. Derr

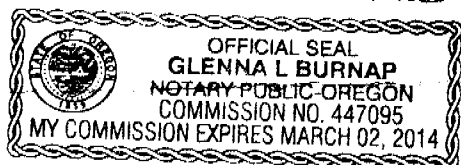
SECOND PARTIES

Michael L. Fitzpatrick  
Michael L. Fitzpatrick

Alice Fitzpatrick  
Alice Fitzpatrick

State of Oregon, County of Oregon ) ss.

PERSONALLY APPEARED before me MICHAEL L. FITZPATRICK and ALICE FITZPATRICK on this 25<sup>th</sup> day of March, 2013, and acknowledged the foregoing instrument to be their voluntary act and deed. Alice appeared before me for Michael Fitzpatrick  
She has power of Attorney

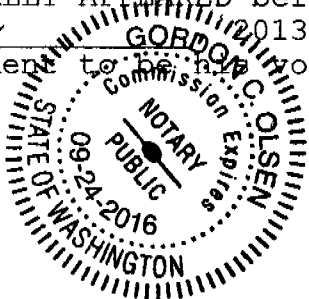


NOTARY PUBLIC FOR OREGON

Glenna L. Burnap  
My Commission Expires: 03/02/2014

State of Washington, County of \_\_\_\_\_ ) ss.

PERSONALLY APPEARED before me JEFFREY S. DERR on this 1 day of April, 2013, and acknowledged the foregoing instrument to be their voluntary act and deed.



NOTARY PUBLIC FOR WASHINGTON

Gordon C. Olsen  
My Commission Expires: \_\_\_\_\_