

AFTER RECORDING RETURN TO:

Attn: Billy Breedlove  
Amerititle  
300 Klamath Avenue  
Klamath Falls, OR 97601

2013-006503

Klamath County, Oregon

06/10/2013 12:10:05 PM

Fee: \$62.00

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### Easement Agreement

This **EASEMENT AGREEMENT** is made as of the 30<sup>th</sup> day of May, 2013, between **KLAMATH NORTHERN RAILWAY COMPANY**, an Oregon corporation ("**Grantor**") with an address of 2211 Rimland Drive #220, Bellingham, Washington 98226, and **JOHN E. OCKERT** ("**Grantee**").

**Whereas**, Grantor owns the exclusive railroad right-of-way that is described in that certain Easement Agreement recorded in Volume: M-91, Page: 20430 of the Records of Klamath County, Oregon, said right-of-way being located in the southwest 1/4 of Section 30, Township 24 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon ("**Grantor's Property**").

**Whereas**, Grantee desires to obtain from Grantor a sub-easement over a portion of Grantor's Property for access to Grantee's property, which is described on the attached Exhibit A ("**Grantee's Property**"). This easement area is described as follows:

A strip of land no more than 40-feet wide over the existing road that runs along the west side of and parallel to the Klamath Northern Railroad, the length of which road is from Crescent Lake Cutoff Road on the north to the point that Grantee's appurtenant access easement intersects with Grantor's Property (which easement is described in that certain warranty deed recorded in Vol. M79 at Page 14983 Records of Klamath County, and is referred to herein as the "**Ockert Appurtenant Easement**"); which access easement is sufficiently wide at the point of the intersection of Grantor's Property and the Ockert Appurtenant Easement to allow for vehicular ingress and egress to Grantee's Property.

The easement area as described is referred to herein as the "**Easement Area**."

**Whereas**, Grantor is willing to grant such easement on the terms and conditions in this Easement Agreement.

## GRANT AND AGREEMENTS

1. Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Grantor does hereby grant, bargain, sale, and convey to Grantee, a perpetual nonexclusive easement under, over, and through the Easement Area for the following purposes:

For pedestrian and vehicular ingress and egress to Grantee's Property via the over the Easement Area from Crescent Lake Cutoff Road to the intersection point with Grantee's Appurtenant Easement, and for the performance of any of Grantee's obligations under this Easement Agreement (the "*Easement Activities*").

2. Grantee represents that Grantee has or will obtain rights of ingress and egress to the Easement Area over and across adjacent lands if Grantee needs such access to carry out its Easement Activities in the Easement Area. Grantor makes no representations as to its rights, or lack thereof, to grant any access easement to Grantee to the Easement Area except over Grantor's Property as provided herein.

3. Grantee reserves all rights to use the Easement Area in any way that does not materially adversely affect Grantee's easement rights granted in this Easement Agreement including granting nonexclusive easements over the Easement Area to other parties. Grantor has the right, but not the obligation, to control access of the public, if any, over the roadway in the Easement Area. In connection with this right, Grantor has the right to place a gate and lock on the access roadway, and if Grantor exercises this right, Grantee will be provided access to the lock so Grantee can open the gate. Grantor reserves the right to relocate the Easement Area at Grantor's expense, provided the relocated road provides reasonably equivalent access to Grantee's Appurtenant Easement and/or Grantee's Property. Upon such relocation of said road, this Easement Agreement shall apply to the new location of the roadway, and this Easement Agreement shall no longer burden the original Easement Area.

4. Grantee agrees that any damage to the Easement Area or adjacent landscaping, fencing, gates, parking, roadways, ingress and egress routes or any other areas of Grantor's Property caused by Grantee, its subcontractors, guests, invitees, representatives or assigns, shall be promptly and completely repaired or reconstructed by Grantee to the preexisting condition at Grantee's sole cost and expense. Grantee agrees to perform all work in a good and workmanlike manner. Grantee agrees that Grantor may, from time to time, recover from Grantee maintenance and repair costs incurred by Grantor in connection with maintenance of the roadway through the Easement Area, in reasonable proportion as determined by Grantor to Grantee's use of the Easement Area.

5. Grantee shall indemnify and hold Grantor harmless for and from any liability, suit, settlement or judgment and related attorneys' fees and expenses based upon any alleged damage to property, bodily injury or death arising out of Grantee's, its employees', agents', guests', invitees', or contractors' use of to the Easement Area.
6. This Easement Agreement shall run with the land, shall be appurtenant to Grantee's Property, and shall burden Grantor's Property and will inure to and be binding upon Grantor's and Grantee's respective successors and assigns, and shall be recorded in the public records where the Easement Area is located.
7. Grantee acknowledges that this Easement Agreement and the easement granted by Grantor herein is subject to all valid liens, easements, servitudes, rights-of-way, oil, gas and mineral leases, and other grants of record in Klamath County or apparent on the ground.
8. In the event that any suit, proceeding, or litigation is commenced to enforce or interpret the provisions of this Easement Agreement, including any appeal therefrom, the prevailing party shall recover from the other party, in addition to all other costs and damages, reasonable attorneys' fees as determined by a judge at trial or upon any appeal or petition for review.
9. In the event of breach of this Easement Agreement by Grantee, Grantor may terminate this Easement Agreement by recording a written notice in the Records of Klamath County, Oregon that describes such breach, Grantor's prior written notice of the breach, and Grantee's failure to cure the breach within 15 days after that notice was given. In addition, in the event that Grantee's Property is made accessible by a public road or other reasonable access, then this Easement Agreement may be terminated by Grantor.
10. All notices directions and other instruments required or permitted to be given under this Easement Agreement will be in writing and will be sufficient in all respects if delivered or sent by facsimile with receipt of delivery, or if sent by certified U.S. mail, to the parties at the following address or to any substitute address of which the party provides notice in writing:

If to Grantor to:

Klamath Northern Railway Co.  
#1 Sawmill Road  
P.O. Box 638  
Gilchrist, OR 97737

If to Grantee to:

John E. Ockert  
135036 Riverview Street,  
Crescent, OR 97733

WITNESS my signature this 23 day of May, 2013.

GRANTOR:

GRANTEE:

KLAMATH NORTHERN RAILWAY CO.,  
an Oregon corporation

JOHN E. OCKERT

John E Ockert

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF OREGON )  
COUNTY OF Lane ) ss.

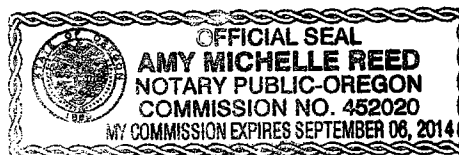
STATE OF OREGON )  
COUNTY OF Lane ) ss.

This is to certify that on this 23rd day of MAY, 2013, before me personally appeared John E. Ockert known to me to be the individual who signed above, as a free and voluntary act, and acknowledged that they are authorized to sign on behalf of KLAMATH NORTHERN RAILWAY COMPANY.

This instrument was acknowledged before me on 5-23-13 2013 by John E. Ockert.

Amy Michelle Reed  
Notary Public, State of Oregon

Amy Michelle Reed  
Notary Public, State of Oregon



WITNESS my signature this 30<sup>th</sup> day of May, 2013.

GRANTOR:

GRANTEE:

KLAMATH NORTHERN RAILWAY CO.,  
an Oregon corporation

JOHN E. OCKERT

By: Susan Steers  
Name: Susan Steers  
Title: Assistant Secretary

STATE OF ~~OREGON~~ Washington  
COUNTY OF Whatcom } ss.

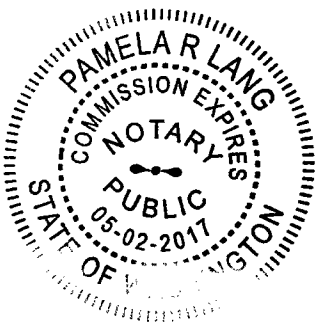
STATE OF OREGON )  
COUNTY OF \_\_\_\_\_ ) ss.

This is to certify that on this 30<sup>th</sup> day of May, 2013, before me personally appeared Susan Steers known to me to be the individual who signed above, as a free and voluntary act, and acknowledged that they are authorized to sign on behalf of KLAMATH NORTHERN RAILWAY COMPANY.

This instrument was acknowledged before me on \_\_\_\_\_, 2013 by John E. Ockert.

\_\_\_\_\_  
Notary Public, State of Oregon

Pamela R Lang  
Notary Public, State of ~~Oregon~~ Washington



## EXHIBIT A

### GRANTEE'S BENEFITTED PROPERTY

A parcel of land situated in the SW1/4 of Section 36, Township 24 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the Southwest corner of said Section 36; thence South 89°28'54" East along the Southerly line of said Section 36, 254.05 feet to the Westerly line of that certain parcel described in Deed Volume M74, page 13285, being the official Klamath County Records; thence North 00°34'19" East along the Westerly line of said parcel described in Deed Volume M74, page 13285, 202.25 feet to the Northwest corner of that parcel described in Deed Volume M74, page 13285; thence South 89°25'41" East along the Northerly line of said parcel described in Deed Volume M74, page 13285, 546.69 feet to the Southwest corner of that certain parcel described in Deed Volume M77, page 17497 being the official Klamath County Records; thence North 00°34'19" East along the Westerly line of said parcel described in Deed Volume M77, page 17497, 295.00 feet to the Northwest corner of said parcel described in Deed Volume M77, page 17497; thence South 89°25'41" East along the Northerly line of said parcel described in Deed Volume M77, page 17495, 528.10 feet to the Easterly line of the SW1/4 of the SW1/4 of said Section 36; thence North 00°19'29" East along the Easterly line of said SW1/4 of the SW1/4 of Section 36, 823.43 feet to the Northeast corner of said SW1/4 of the SW1/4; thence North 89°34'19" West along the Northerly line of said SW1/4 of the SW1/4, 1,332.27 feet to the Northwest corner of said SW1/4 of the SW1/4; thence South 00°16'06" West along the Westerly line of said Section 36, 1,317.59 feet to the point of beginning.