

2014-009540

Klamath County, Oregon



00158687201400095400080084

09/12/2014 02:21:31 PM

Fee: \$87.00

RECORDING COVER SHEET (Please Print or Type)

The information on this sheet is a reflection of the attached instrument for the purpose of meeting first page recording requirements, ORS 205.234.

If this cover page is included with your document, please add \$5.00 to the total recording fees.

AFTER RECORDING RETURN TO:

Brandsness, Brandsness & Rudd, P.C.

411 Pine Street

Klamath Falls, OR 97601

1) TITLE(S) OF THE TRANSACTION(S) ORS 205.234(a)

Agreement

(modifies documents recorded at Volume M02, Page 22186;

Volume M02, Page 69231; and 2011-010883)

2) DIRECT PARTY / GRANTOR(S) ORS 205.125(1)(b) and 205.160

Mike Sutton and Elaine Sutton, 1377 Lower Klamath Lake Road, Klamath Falls, OR 97603

Art Davina and Mary Davina, 1363 Lower Klamath Lake Road, Klamath Falls, OR 97603

Lawrence Don Cheyne, Jr. and Sandra Alyce Cheyne, P. O. Box 74, Midland, OR 97634

3) INDIRECT PARTY / GRANTEE(S) ORS 205.125(1)(a) and 205.160

4) TRUE AND ACTUAL CONSIDERATION

ORS 93.030(5) – Amount in dollars or other

\$ 0.00

☐ Other

5) SEND TAX STATEMENTS TO:

6) SATISFACTION of ORDER or WARRANT

ORS 205.125(1)(e)

CHECK ONE: ☐ FULL

(If applicable) ☐ PARTIAL

7) The amount of the monetary obligation imposed by the order or warrant. ORS 205.125(1)(c)

\$

8) If this instrument is being Re-Recorded, complete the following statement, in

accordance with ORS 205.244: "RERECORDED TO CORRECT

PREVIOUSLY RECORDED IN

BOOK _____ AND PAGE _____, OR AS FEE NUMBER _____."

AGREEMENT

DATE: 9-11, 2014

PARTIES: Mike Sutton
Elaine Sutton
1377 Lower Klamath Lake Road
Klamath Falls, OR 97603 ("Suttons")

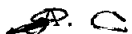
Art Davina
Mary Davina
1363 Lower Klamath Lake Road
Klamath Falls, OR 97603 ("Davinas")

Lawrence Don Cheyne, Jr.
Sandra Alyce Cheyne
P. O. Box 74
Midland, OR 97634 ("Cheynes")

RECITALS:

A. The parties own real property on Lower Klamath Lake Road, Klamath County, Oregon, which is subject to certain rights and obligations set forth with respect to domestic water wells and supply lines. There exists a Non-Exclusive Reciprocal Easement Agreement with amendments which are recorded in Klamath County Deed Records at Volume M02, Page 22186; Volume M02, Page 69231; and as Document No. 2011-010883, and which are hereinafter collectively referred to as the "Reciprocal Agreement."

B. Suttons are the owners of real property located at 1377 Lower Klamath Lake Road, Klamath Falls, Oregon by deed recorded at Volume 2007, Page 014582, Deed Records of Klamath County, Oregon, and referred to as Parcel A in the Reciprocal Agreement. Parcel A is more particularly described in the attached Exhibit



C. Davinas are the owners of real property located at 1363 Lower Klamath Lake Road, Klamath Falls, Oregon by deed recorded at Volume M00, Page 44971, Deed Records of Klamath County, Oregon, and referred to as Parcel B in the Reciprocal Agreement. Parcel B is more particularly described in the attached Exhibit B.

D. Cheynes are the owners of real property located at 1345 Lower Klamath Lake Road, Klamath Falls, Oregon by deed recorded at Volume M67, Page 4500, Deed Records of Klamath County, Oregon,

and referred to as Parcel C in the Reciprocal Agreement. Parcel C is more particularly described in the attached Exhibit **A**.

E. Well No. 1 and Well No. 2 are of limited capacity to provide water to Parcel A, Parcel B and Parcel C.

F. The parties desire to modify the Reciprocal Agreement on the condition Davinas can establish a new domestic well that provides water to Davinas' property sufficient for Davinas' purposes.

AGREEMENT:

The parties, for mutual consideration, one to the other, do hereby modify the Reciprocal Agreement per the terms and conditions of this Agreement.

1. The above recitals are incorporated into this Agreement by reference.

2. Davinas terminate all right to use water from Well No. 1 and Well No. 2 and the distribution supply lines associated therewith.

3. Suttons and Cheynes, upon termination of Davinas' use of Well No. 1 and Well No. 2 and the supply lines, agree to equally share the cost of maintenance of the wells and supply lines 50 percent each. Davinas will have no further obligation to pay for expenses of maintenance and repair of Well No. 1 and Well No. 2 and the supply lines.

4. Davinas' new well and supply lines will be for the sole use of Parcel B.

5. This Agreement shall have no affect and is contingent upon Davinas establishing a domestic well suitable for Davinas' domestic purposes. In the event Davinas are unable to establish a domestic well for Davinas' purposes, this Agreement shall be null and void.


6. If Davinas do establish a domestic well, Davinas shall record a document entitled Release of Easement, which form shall describe Parcel A, Parcel B and Parcel C and give notice of Davinas' satisfaction of the contingency contained in paragraph 5 above, and reference the removal of the contingency of this Agreement.

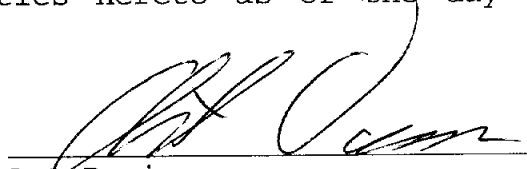
7. The terms of the Reciprocal Agreement providing an easement for supply lines established on Parcel B for the benefit of Parcel A and Parcel C, shall not be disturbed.

8. This Agreement shall be appurtenant to and run with the lands described herein.


9. All other terms of the Reciprocal Agreement shall remain the same, except as specifically modified herein.

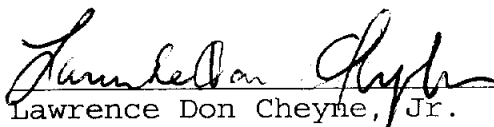
WITNESS the hands of the parties hereto as of the day and year first above written.


Mike Sutton


Art Davina


Elaine Sutton

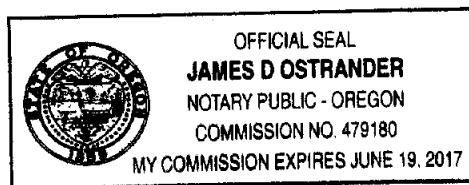

Mary Davina

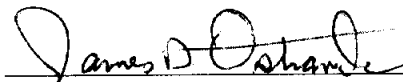

Lawrence Don Cheyne, Jr.


Sandra Alyce Cheyne

STATE OF OREGON)
) ss.
County of Klamath)

This document was acknowledged before me this 10th day of September, 2014 by Mike Sutton and Elaine Sutton.

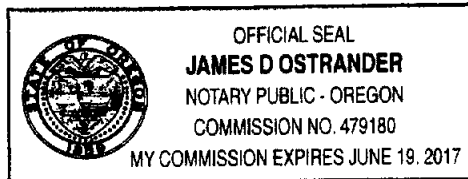



Notary Public for Oregon
My Commission expires: 6/19/2017

Additional Acknowledgments on Following Page

STATE OF OREGON)
) ss.
County of Klamath)

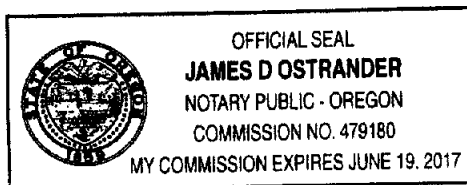
This document was acknowledged before me this 11 day of
September, 2014 by Art Davina and Mary Davina.



James D Ostrander
Notary Public for Oregon
My Commission expires: 6/19/2017

STATE OF OREGON)
) ss.
County of Klamath)

This document was acknowledged before me this 11 day of
September, 2014 by Lawrence Don Cheyne, Jr. and Sandra Alyce
Cheyne.



James D Ostrander
Notary Public for Oregon
My Commission expires: 6/19/2017

Exhibit A
LEGAL DESCRIPTION

LAWRENCE D. CHEYNE, JR. AND SANDRA A. CHEYNE

Legal Description as previously recorded in Klamath County Records
Document 27437, Vol. M99, Page 21435

72

A PIECE OR PARCEL OF LAND SITUATE IN LOT 1 OF SECTION 28, TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN MARKING THE QUARTER SECTION CORNER COMMON TO SECTIONS 21 AND 28, TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN; THENCE SOUTH $0^{\circ} 06 \frac{1}{4}'$ WEST ALONG THE NORTH-SOUTH CENTER LINE OF SAID SECTION 28. 885.1 FEET TO AN IRON PIN; THENCE NORTH $89^{\circ} 47 \frac{1}{4}'$ WEST 941.9 FEET TO AN IRON PIN ON THE CENTER LINE OF THE LOWER KLAMATH LAKE COUNTY ROAD AS THE SAE IS PRESENTLY LOCATED AND CONSTRUCTED; THENCE FOLLOWING THE CENTER LINE OF SAID COUNTY ROAD, NORTH $64^{\circ} 41'$ WEST 378.2 FEET; NORTH $32^{\circ} 55 \frac{1}{2}'$ WEST 490.6 FEET, AND NORTH $24^{\circ} 28'$ WEST 341.3 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 28; THENCE SOUTH $39^{\circ} 54 \frac{3}{4}'$ EAST ALONG THE NORTH LINE OF SAID SECTION 28 1693.4 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

A PIECE OR PARCEL OF LAND SITUATE IN LOT 1 OF SECTION 28, TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN MARKING THE QUARTER SECTION CORNER COMMON TO SECTIONS 21 AND 28, TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN; THENCE SOUTH $0^{\circ} 06 \frac{1}{4}'$ WEST ALONG THE NORTH-SOUTH CENTER LINE OF SAID SECTION 28. 885.1 FEET TO AN IRON PIN; THENCE NORTH $89^{\circ} 47 \frac{1}{4}'$ WEST 689.01 FEET TO A POINT; THENCE NORTH PARALLEL TO SAID NORTH PARALLEL TO SAID NORTH-SOUTH QUARTER LINE TO A POINT ON THE NORTH LINE OF SECTION 28; THENCE EAST ALONG THE NORTH LINE OF SECTION 28 TO THE POINT OF BEGINNING.

Davina

EXHIBIT **B**
LEGAL DESCRIPTION

A parcel of land situate in Government Lot 1, Section 28, Township 40 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a 5/8 inch iron pin on the North line of said Lot 1 from which the quarter section corner common to Sections 21 and 28 bears South 89° 51' 05" East 489.01 feet; thence South 00° 05' 50" West parallel with the East line of said Lot 1, 48.38 feet to a 5/8 inch iron pin; thence North 89° 54' 10" West 79.48 feet to a 5/8 inch iron pin; thence South 00° 05' 50" West parallel with the East line of said Lot 1, 72.17 feet to a 5/8 inch iron pin; thence South 89° 54' 10" East 79.48 feet to a 5/8 inch iron pin; thence South 00° 05' 50" West parallel with the East line of said Lot 1, 623.89 feet to a point on the North line of a parcel of land described in Volume M89, page 13285, Microfilm Records of Klamath County, Oregon; thence North 89° 47' 15" West on said North line, 11.05 feet to the Northwest corner of said parcel; thence South 00° 04' 55" West on the West line of said parcel, 140.02 feet to a point on the South line of a parcel of land described in Volume M00, page 44971, Microfilm Records of Klamath County, Oregon; thence North 89° 40' 50" West on said South line, 388.98 feet to a 5/8 inch iron pin at the Southwest corner thereof; thence North 00° 05' 50" East on the West line of last said parcel, 883.28 feet to a 5/8 inch iron pin on the North line of said Lot 1; thence South 89° 51' 05" East on last said North line, 400.00 feet to the point of beginning.

Together with the following described parcel:

Commencing at a point on the North line of said Section 28 from which the North 1/4 corner of said Section bears South 89° 51' 05" East 889.01 feet; thence South 00° 05' 50" West 158.29 feet to the true point of beginning; thence South 48° 55' 38" West 64.52 feet; thence South 00° 05' 50" West 155.00 feet; thence South 48° 55' 30" East 64.33 feet; thence North 00° 05' 50" East 239.64 feet to the point of beginning.

Excepting therefrom the following described parcel:

Beginning at a point on the North line of said Section 28, from which the North 1/4 corner of said section bears South 89° 51' 05" East 889.01 feet; thence South 00° 05' 50" West 158.29 feet; thence North 48° 55' 38" East 102.23 feet; thence North 00° 05' 50" East 90.92 feet to said North line of Section 28; thence along said North line North 89° 51' 05" West 77.00 feet to the point of beginning.

TOGETHER WITH a non-exclusive easement for ingress and egress, being 30 feet in width and being more particularly described in Volume M02, page 22186 and re-recorded in Volume M02, page 69231, Microfilm Records of Klamath County, Oregon.

EXHIBIT C
LEGAL DESCRIPTION

A parcel of land situate in Lot 1 of Section 28, Township 40 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at an iron pin marking the quarter section corner common to Sections 21 and 28; thence South 00° 05' 50" West on the East line of said Lot 1, 744.97 feet more or less to the corner of a parcel of land described in Volume M89, page 13285, Deed Records of Klamath County, Oregon; thence North 89° 47' 15" West on the North line of last said parcel, 489.01 feet; thence North 00° 05' 50" East parallel with the East line of said Lot 1, 623.89 feet to a 5/8 inch iron pin; thence North 89° 54' 10" West, 79.48 feet to a 5/8 inch iron pin; thence North 00° 05' 50" East parallel with the East line of said Lot 1, 72.17 feet to a 5/8 inch iron pin; thence South 89° 54' 10" East 79.48 feet to a 5/8 inch iron pin; thence North 00° 05' 50" East parallel with the East line of said Lot 1, 48.38 feet to a 5/8 inch iron pin on the North line of said Lot 1; thence South 89° 51' 05" East on the said North line, 489.01 feet to the point of beginning.

TOGETHER WITH a non-exclusive easement for ingress and egress being 30 feet in width and being more particularly described in Volume M02, pages 22186 and 22187, Deed Records of Klamath County, Oregon.

ALSO TOGETHER WITH a non-exclusive easement for ingress and egress, being 30 feet in width and also being 15 feet width on each side of the following described centerline: Beginning as a point on the West line of the above described parcel of land from which the Southwest corner of said parcel bears South 00° 05' 50" West, 399.08 feet; thence South 82° 11' 00" West, 403.85 feet to a point on the West line of a parcel of land described in Volume M00, page 44971, Deed Records of Klamath County, Oregon, the Northwest corner of which bears North 00° 05' 50" East, 401.32 feet.