

2016-006023

Klamath County, Oregon

06/08/2016 11:17:21 AM

Fee: \$62.00



RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

FORT KLAMATH LAND COMPANY, LLC
4291 LaGrande Road
Williams, California 95987
Attn: Mike LaGrande

[SPACE ABOVE THE LINE IS FOR RECORDER'S USE]

WATER CONVEYANCE EASEMENT

This WATER CONVEYANCE EASEMENT (this "*Easement*") dated June 1, 2016, is granted by SEVENMILE CREEK RANCH LLC, an Oregon limited liability company, ("*Grantor*") in favor of FORT KLAMATH LAND COMPANY, LLC, a Delaware limited liability company ("*Grantee*").

Recitals

- A. Grantor is the owner of real property known as Seven Mile Creek Ranch (the "*Burdened Property*") located in Klamath County, Oregon, which property is legally described on the attached Exhibit A.
- B. Grantee is the owner of real property previously known as the Smith Ranch (the "*Benefitted Property*"), located in Klamath County, Oregon, which property is legally described on the attached Exhibit B.
- C. Grantee is purchasing the Benefitted Property from Grantor. The Benefitted Property has certificated water rights to draw water from Seven Mile Creek and Blue Springs at points located on the Burdened Property as follows (the "*Water Rights*"):Primary Water Rights under
 - Certificate 10899 from Seven Mile Creek for 180.4 acres with a priority date of 1898,
 - Certificate 64188 from Seven Mile Creek for 80 acres with a priority date of 1890,
 - Certificate 64329 from Blue Springs for 78.6 acres with a priority date of 1890, andSupplemental Surface Water Rights under:
 - Certificate 7757 from Blue Spring for 180.4 acres with a priority date of July 21, 1928,
 - Certificate 32112 from Blue Spring for 73.8 acres with a priority date of March 13, 1952
- D. In connection with the sale of the Benefitted Property and the conveyance of the foregoing appurtenant Water Rights, Grantor has agreed to grant easements to deliver water over the Burdened Property to the Benefitted Property.

Easement

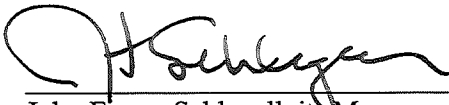
1. **Grant of Easement.** Grantor hereby grants to Grantee a nonexclusive easement (a) to draw water from Seven Mile Creek and Blue Springs as permitted under the Water Rights and to convey such water using existing ditches, pipes and other delivery system equipment and fixtures to the

Benefitted Property to the current point where Smith Ranch receives said water near the intersection of Seven Mile Road and Hackler Road (the "***Easement Area***"); and (b) to access the foregoing water delivery system for the purpose of inspecting, maintaining and replacing equipment, ditches as pipes as Grantee deems reasonably necessary.

2. **Amount of Water.** If there is a dispute as to the amount of water being delivered, it will be the Klamath County Watermaster's determination of the amount that is to be made available at that point. Either Grantor or Grantee may install a measurement device to measure the amount of water being delivered. The Klamath County Watermaster shall be asked to verify the accuracy of said device if it is installed. In the event that Grantor does not make delivery of water in the amounts determined by the Klamath County Watermaster, Grantee will have to right go upon and across the Easement Area to divert and transport the proper amount of water through the ditches on the Burdened Property to satisfy the water rights on the Benefitted Property pursuant to the determination of the Klamath County Water Master.
3. **Indemnity.** Grantee will indemnify, defend and hold Grantor harmless from and against all claims, actions and damages related to or arising out of Grantee's use of the Burdened Property and the Easement Area.
4. **General Terms.**
 - (a) **Applicable Law.** This Easement shall be governed by, and construed in accordance with, the laws of the State of Oregon without regard to its conflicts of laws rules.
 - (b) **Attorney Fees.** In the event of a dispute over this Easement, the substantially prevailing party shall be entitled to recover its reasonable attorney fees, statutory court costs, and other expenses incurred in enforcing any right or remedy under this Easement, whether or not suit is filed, or in pursuing any right or remedy under federal bankruptcy law, state insolvency statutes or other similar statutes. Such fees, costs, and expenses shall include without limitation those incurred in any trial, appeal or review or any proceeding under federal bankruptcy or state receivership laws.
 - (c) **Binding Agreement.** The benefits and burdens of this Easement shall constitute a covenant running with the parcels of land herein described and shall be binding upon the heirs, successors in title and assigns of the parties hereto.

DATED the day and year first above written.

SEVENMILE CREEK RANCH LLC, an Oregon limited liability company

By: 
John E. von Schlegell, its Manager

This instrument was acknowledged before me on June 16, 2016, by John E. von Schlegell as Manager of SEVENMILE CREEK RANCH LLC, an Oregon limited liability company.

 OFFICIAL STAMP
LINDSAY LEIGH WILLIAMS
NOTARY PUBLIC-OREGON
COMMISSION NO. 943173
MY COMMISSION EXPIRES SEPTEMBER 29, 2019

Lindsay Leigh Williams
Notary Public in and for the State of Oregon
Name Lindsay Leigh Williams
(printed or typed)
My Commission Expires: September 29, 2019

EXHIBIT A

Legal Description of Burdened Property

The Burdened Property is located in Klamath County, Oregon, and is legally described as follows:

Township 33 South, Range 6 East of the Willamette Meridian, Klamath County, Oregon.

Section 25: N 1/2 NE 1/4; NW 1/4 and the W 1/2 SW 1/4, SE 1/4

Section 26: E 1/2 NE 1/4 NE 1/4; E 1/2 W 1/2 NE 1/4 NE 1/4; SE 1/4 NE 1/4; NE 1/4 SE ¼ and the S 1/2 SE 1/4

Township 33 South, Range 7 1/2 East of the Willamette Meridian, Klamath County, Oregon.

Section 30: SE 1/4 NW 1/4; E 1/2 SW 1/4; NE 1/4 NW 1/4 and Government Lots 1, 2, 3 and 4

Section 31: Government Lots 1 and 2 and the E1/2 NW1/4

EXHIBIT B

Legal Description of Benefitted Property

The Benefitted Property is located in Klamath County, Oregon, and is legally described as follows:

Parcel 1:

The SW1/4 of Section 31, Township 33 South, Range 7 1/2 East of the Willamette Meridian, Klamath County, Oregon.

The SE1/4 of Section 31, Township 33 South, Range 7 1/2 East of the Willamette Meridian, Klamath County, Oregon, and a tract of land being a portion of the SW1/4 of Section 32, described as follows:

Beginning at a point 360 feet East of the Northwest corner of the SW1/4 of Section 32; thence South 2640 feet to the Township line; thence West 360 feet to the section line between Sections 31 and 32; thence North along said section line 2640 feet to the Northwest corner of the SW1/4 of Section 32; thence East to the point of beginning.

EXCEPTING therefrom the West 60 feet of the SE1/4 of Section 31, for road purposes, conveyed by Volume 149 at page 484, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING therefrom that portion conveyed to Klamath County for road purposes in Deed Volume 295 at page 148, Deed Records of Klamath County, Oregon.

Parcel 2:

Parcel 2 of Land Partition 02-16

Situated in the E1/2 NE1/4, E1/2 SE1/4, SW1/4 SE1/4, SE1/4 SW1/4 of Section 29, and the NE1/4 NW1/4, N1/2, NE1/4, S1/2 N1/2 lying South of Seven Mile Road, and the SE1/4, SW1/4 EXCEPTING the West 360', of Section 32, and all of Section 33, in Township 33 South, Range 7 1/2 East, W.M., Klamath County, Oregon.

And that portion of Government Lots 1, 2, 3, and 4, of Section 4 and Government Lot 1 of Section 5, in Township 34 South, Range 7-1/2 East, W.M., Klamath County, Oregon, more particularly described as follows:

Beginning at the quarter section corner on the North line of Section 4; thence South along the East line of Government Lots 1 and 4, 1989.5 feet; thence North 62°37' West, 4328.3 feet to the North line of Section 5; thence East along the North line of Section 5 and 4, 3862 feet, more or less to the point of beginning.

Tax account Nos. R76358, R76429, R76438, R76447, R76367, R76875 & R76857