

2016-008373

Klamath County, Oregon

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Memorandum Of Agreement For Road Use

By and Between

Gordon C. Jones Revocable Trust

And

J. Rosco Divine

And

The United States Fish and Wildlife Service, Pacific Southwest Region

PURPOSE

The purpose of this Memorandum of Agreement (MOA) established by and between the U.S. Fish and Wildlife Service ("Service"), Gordon C. Jones Revocable Trust ("Jones Trust") and J. Rosco Divine ("J. Divine"), each a "Party" and collectively the "Parties" to this MOA, is to establish and document "Invitee Status" for use of that certain existing, non-exclusive easement across an access road held by the Jones Trust and J. Divine, provided at Attachment A, in Klamath County, Oregon, by employees, contractors, and volunteers of the Service for limited purposes which provide direct and indirect material benefits to the Jones Trust and J. Divine.

STIPULATIONS

WHEREAS, the Secretary of the Interior, acting through the Service, administers the

National Wildlife Refuge System under the authority of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee); and

WHEREAS, the UNITED STATES OF AMERICA acting by and through the Secretary of the Interior and its authorized representative, the Pacific Southwest Region of the U.S. Fish and Wildlife Service purchased land from the Jones Trust and J. Divine; and

WHEREAS the Jones Trust and J. Divine continue to own land adjacent to that administered by the Service, which land benefits from that certain easement provided at Attachment A; and

WHEREAS, as owners of land that benefits from that certain easement provided at Attachment A, the terms of said easement provide that the invitees of the Jones Trust and J. Divine may also use that easement to cross lands owned by other owners of said easement to access the lands owned by the Jones Trust and J. Divine; and

WHEREAS the Service has constructed a fence directly adjacent to lands owned by the Jones Trust and J. Divine for the purpose of excluding cattle owned by unidentified third parties from trespassing onto lands managed by the Service; and

WHEREAS said fence will provide a material benefit to the Jones Trust and J. Divine by also excluding cattle owned by unidentified third parties from trespassing onto lands owned by the Jones Trust and J. Divine.

#### AGREEMENT

NOW, THEREFORE, the Service and Jones Trust and J. Divine do hereby mutually agree as follows:

It is agreed that the Jones Trust and J. Divine hereby invite the Service to access the fence constructed on lands managed by the Service, both directly adjacent to and extending beyond those lands owned by Jones Trust and J. Divine that are adjacent to said fence, for the purpose of maintaining said fence.

It is agreed that for purposes of this MOA, the Service includes the employees of the Service, the Service's contractors, and individuals who are specifically identified by the Service to the Jones Trust and J. Divine as volunteers acting under the direction of the Service.

It is understood that this invitation does not extend to the general public nor create any rights or interests in the general public in that easement provided at Attachment A.

#### TERM OF AGREEMENT

This MOA shall be in force for a period of ten (10) years from the date of the last

approving signature.

#### MODIFICATION OF AGREEMENT

This MOA may only be modified in writing and only with the written consent of all of the Parties. The MOA may be renewed for an additional term upon written consent of all parties.

#### KEY OFFICIALS AND CONTACTS

Designated points of contact for the coordination of this project are as follows:

Gordon Jones  
9837 NE Irving St. #302  
Portland, OR 97220

U.S. Fish and Wildlife Service  
Division of Realty  
2800 Cottage Way, Suite W-1832  
Sacramento, CA 95825

#### NON-FUNDING DOCUMENT

Pursuant to the Anti-Deficiency Act, 31 U.S.C. §1341(a)(1) (1994), nothing contained in this Agreement shall be construed as binding the United States to expend any sum in excess of appropriations made by Congress for the purposes of this Agreement, or as involving the United States in any contract or other obligation for the further expenditure of money in excess of such appropriations.

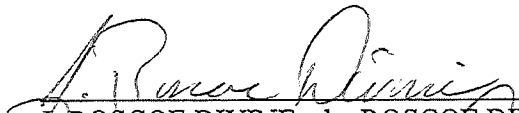
#### HOLD HARMLESS

It is mutually agreed that the Jones Trust and J. Devine and the Service will hold each other harmless for injuries and or damages caused in conjunction with use of the easement described at Exhibit A.

The Service agrees to cooperate, to the extent allowed by law, in the submission of claims pursuant to the Federal Tort Claims Act against the United States for personal injuries or property damage resulting from the negligent or wrongful act or omission of any employee of the United States while acting within the scope of his or her employment, arising out of this MOA.

[REMAINDER OF PAGE INTENTIONAL LEFT BLANK]

By:   
GORDON C. JONES, Trustee, *Trustee*

  
J. ROSCOE DIVINE, aka ROSCOE DIVINE  
*Aka. Roscoe Divine*

Unofficial  
Copy

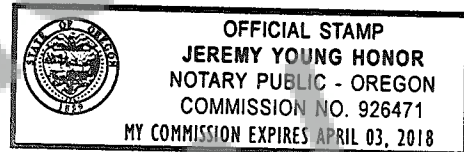
ACKNOWLEDGEMENT

State of OR } ss  
County of LAINE }

On this 21 day of AUGUST, 2016, before me,  
Jeremy Young Honor, a Notary Public in and for said state,  
personally appeared Gordon C. Jones, Trustee, Gordon C. Jones Revocable Trust, known or  
identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and  
acknowledged to me that he/she/they executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year  
in this certificate first above written.

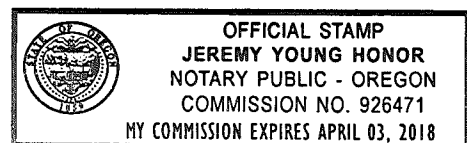
Jeremy Young Honor  
Notary Public for the State of OR  
Residing at: LAINE  
Commission Expires: 4-3-18



State of OR } ss  
County of LAINE }

On this 21 day of AUGUST, 2016, before me,  
Jeremy Young Honor, a Notary Public in and for said state,  
personally appeared J. Roscoe Divine, known or identified to me to be the person(s) whose name(s)  
is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.  
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year  
in this certificate first above written.

Jeremy Young Honor  
Notary Public for the State of OR  
Residing at: LAINE  
Commission Expires: 4-3-18



## CERTIFICATE OF ACCEPTANCE

This is to certify that the Secretary of the Interior, acting by and through her authorized representative, the Realty Officer, U.S. Fish and Wildlife Service, hereby accepts on behalf of the United States of America, the real property described in the within ~~Warranty Deed~~ and consents to recordation thereof.

*Memorandum of Agreement  
for Road Use*

*JS*

7/29/16  
Date

*Thomas L. Sampson*  
Thomas L. Sampson, Realty Officer  
Pacific Southwest Region  
U.S. Fish and Wildlife Service

PLEASE SEE ATTACHED  
CALIFORNIA RECORDS

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Sacramento )  
On 07/29/16 before me, Mitchel Julian Gavino, Notary Public,  
Date Here Insert Name and Title of the Officer  
personally appeared THOMAS L. SAMPSON  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he she/they executed the same in his her/their authorized capacity(ies), and that by his her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature: \_\_\_\_\_

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_

Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_ Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_ ☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General ☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact ☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator ☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_ ☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_ Signer Is Representing: \_\_\_\_\_

## EXHIBIT A

Said easement being for ingress and egress for all Refuge purposes, but not public access, beginning at Military Crossing Road, and terminating at the westerly boundary of that easement to be conveyed from Gordon Jones and Roscoe Devine to the United States of America, and being further described below and shown in Exhibit A:

### **Parcel 1**

That 30-foot wide easement for road purposes located in the North half of section 20, Township 30 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and conveyed to Steven R. Wert by Agreement for Easement dated December 23, 2002 and recorded February 18, 2003 in Volume M03 at Page 09421, records of said County.

### **Parcel 2**

A 30.00 foot wide strip of land located in the North one-half of the Northeast one-quarter of section 20, Township 30 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, lying 15.00 feet on each side of the following described centerline:

Commencing at the Southwest corner of the North one-half of the Northeast one-quarter of said section 20, thence South  $88^{\circ} 38' 34''$  East 900.00 feet to a 1.5" aluminum cap marked "TYE ENGINEERING"; thence North  $1^{\circ} 21' 26''$  East 94.01 feet to the center of an existing access road, being the easterly terminus of that easement conveyed to Stephen R. Wert by Agreement for Easement referenced above as Parcel 1, and the True Point of Beginning; thence North  $48^{\circ} 41' 53''$  East 108.42 feet; thence North  $71^{\circ} 45' 59''$  East 36.78 feet; thence South  $78^{\circ} 11' 58''$  East 60.37 feet to the westerly line of the tract conveyed to the United States of America and the terminus hereof.

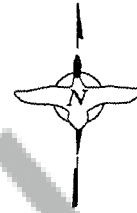
The sidelines of the above described 30.00 foot strip of land are to be trimmed and/or extended to close on the boundary lines described.



# EXHIBIT "A"

NOTE: THIS MAP BASED ON LEGAL DESCRIPTION OF A 30 FOOT WIDE ACCESS EASEMENT INCLUDED IN THE ATTACHED DONATION DEED AS PARCEL 1 AND INCLUDED IN DEED RECORDED IN VOLUME 09421-26.

THIS IS NOT A BOUNDARY SURVEY.



TIE LINE TO NORTH QUARTER CORNER

REMAINDER OF JONES PROPERTY

TAX LOT 3200

TAX LOT 2200

N37°09'45"E  
128.64'

S88° 38' 09"E 593.31'

CENTER OF 30' WIDE ROAD EASEMENT

N21°37'01"E  
291.88'

MILITARY CROSSING ROAD

SHUEY PROPERTY

REV: NONE



U.S. FISH & WILDLIFE SERVICE  
PACIFIC SOUTHWEST REGION

2800 COTTAGE WAY  
SACRAMENTO, CA 95825  
(916) 978-4629

KLAMATH MARSH NWR

SKETCH MAP SHOWING  
JONES PROPERTY (54) 30 FOOT ACCESS EASEMENT  
KLAMATH CO., OREGON

DRAWN KWN

CHECKED N/A

SCALE 1"=200'

DATE JUNE 2016

SHEET 1

OF 1