

e-FILING REPORT COVER SHEET

REPORT NAME: APPLICATION FOR THE SALE, TRANSFER, OR MERGER OF A WATER UTILITY

COMPANY NAME: Shady Cove Waterworks

DOES REPORT CONTAIN CONFIDENTIAL INFORMATION?  No  Yes

If yes, please submit only the cover letter electronically. Submit confidential information as directed OAR 860-001-0070 or the terms of an applicable protective order.

If known, please select designation:  RE (Electric)  RG (Gas)  RW (Water)  
 RO (Other)

Report is required by:  OAR Enter Rule number; e.g., 860-039-0070  
 Statute ORS 757.125 and 757.135  
 Order Enter Commission Order No.; e.g., 95-1335  
 Other at Request of Kathy Willis

Is this report associated with a specific docket/case?  No  Yes  
If Yes, enter docket number: Enter docket number; e.g.; UM 1484

Key words: Shady Cove Waterworks, Hiland Water Corp.

If known, please select the PUC Section to which the report should be directed:

- Corporate Analysis and Water Regulation
- Economic and Policy Analysis
- Electric and Natural Gas Revenue Requirements
- Electric Rates and Planning
- Natural Gas Rates and Planning
- Utility Safety, Reliability & Security
- Administrative Hearings Division
- Consumer Services Section

**PLEASE NOTE: Do NOT use this form or e-filing with the PUC Filing Center for:**

- Annual Fee Statement form and payment remittance or
- OUS or RSPF Surcharge form or surcharge remittance or
- Any other Telecommunications Reporting or
- Any daily safety or safety incident reports or
- Accident reports required by ORS 654.715.

## APPLICATION FOR THE SALE, TRANSFER, OR MERGER OF A WATER UTILITY

Instructions: All applications submitted to the Commission must be filed electronically with the Commission's Filing Center. Documents may be electronically filed by sending the filing as an attachment to an electronic mail message addressed to the Commission's Filing Center at [puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us). An original document must be personally delivered or mailed on the date the electronic copy of the document is filed.

Shady Cove Waterworks, LLC

(Name of Water Utility)

Hiland Water Corp.

(Name of Owner or Officer)

PO Box 699

(Address)

Newberg, OR 97132

(City, State, Zip)

855-554-8333

(Utility Telephone Number)

**RE:** In the Matter of the Application for an Order Authorizing the sale of Shady Cove Waterworks, LLC to Hiland Water Corp, PO Box 699, Newberg, OR 97132, 1-855-554-8333, pursuant to OAR 860-036-0710.

A redacted **copy of the Membership Purchase Agreement is attached to this application** and contains terms and provisions of the sale. The sale took place on June 9, 2014. At that time, Buyer (Hiland Water) and Seller (AmericanWest Bank) were not aware of the recently changed law requiring Commission approval for the sale of service regulated water systems that are not rate regulated.

After beginning its research regarding Shady Cove in 2011, Hiland Water formally became involved in waterworks at Shady Cove through acquisitions of Northridge and Whispering Pines water systems (which were PUC approved acquisitions). Hiland saw this as an opportunity to bring its water system expertise and creative problem solving to an area that is in great need of a stronger water supply. Since acquiring Northridge and Whispering Pines water systems, it has been Hiland's goal to supplement the scarce groundwater sources serving those communities.

The Seller, meanwhile, took possession of Shady Cove Waterworks through the acquisition of Premier West Bank in late 2012, which had previously repossessed Shady Cove Waterworks from its builder. Over the course of roughly 18 months, the Buyer and Seller negotiated a complex and detailed agreement to transfer ownership of Shady Cove Waterworks, LLC (SCWW), which made Hiland Water the sole owning member of SCWW and its assets. Due to the nature of the circumstances surrounding Shady Cove Waterworks, the Seller and Buyer agreed to keep the Membership Purchase Agreement and its material information confidential.

The Seller is unfamiliar with water system operations in general and is largely unaffected by regulation of water utilities. Both parties, however, desire to comply with the law. After several months of conversation, the Seller agreed to allow Hiland Water to

create and submit this application and provide the PUC the redacted Agreement that has been attached. Due to the complicated circumstances surrounding this acquisition, Hiland Water requests that PUC staff consider the information that is provided in this application in order to determine whether this acquisition is positive for water users while relying on its knowledge about Hiland Water and its history of acquisitions and water operations to determine whether or not to approve Hiland Water as the buyer. It is Hiland Water's opinion that these conclusions can be made by the Oregon PUC without provision of the information that is not disclosed. This would fulfill the law and be in the best interest of the parties affected.

The affected water utility property consists of an intake from the Rogue River, a surface water treatment plant, a 528,000 gallon reservoir, and a distribution system.

The sale price of the property is \$Not Disclosed, payable as set forth in the contract or agreement attached to the application. The IRS net book value of the water system is \$Unknown to the Buyer.

The reasons applicant desires to sell, transfer, or otherwise dispose of its utility property are the previous owner is a bank, which is not in the business of owning water systems. This utility was initially acquired by the bank through foreclosure.

The effect(s) of the transaction upon the current customers is positive.

The current customers benefit from this transaction in the following ways: Their water utility will be operated by a professional water company that operates other water systems during the regular course of business. Hiland Water maintains an office with regular office hours dedicated to customer service. It also maintains a website where customers can pay online and find other information related to waterworks. Lastly, Hiland possesses a staff of water operation professionals dedicated to providing quality service and safe drinking water.

The purchasers are financially able and willing to take over and operate the utility property. The purchasers have been approved by the Oregon PUC several times in the past for water systems acquisitions elsewhere, including Northridge Water and Whispering Pines in Shady Cove along with water systems in other areas of Oregon.

Hiland Water has owned and operated water systems for over 17 years. Currently, Hiland is responsible for small water systems around the State of Oregon serving approximately 3,500 equivalent dwelling units. It has several experienced and certified water operators on staff. Hiland is a growing water utility and desired to acquire the water system because ownership of such a system is within Hiland's business purpose and offers a challenging opportunity to meet an important need in Shady Cove.

It should also be noted that the Buyer is not requesting an acquisition adjustment and does not intend to use research, negotiation, or other acquisition costs in the event of a future rate case. The cost of the plant in use will be unaffected by this acquisition, subsequently neutralizing any potential effect on water user rates.



Attached to this application is a copy of all grants of easements owned by SCWW. Also attached is documentation of all water rights owned by SCWW.

Wherefore applicant respectfully requests that the Commission enter an appropriate order authorizing the transaction proposed herein.

Name of Utility Shady Cove Waterworks Dated: 3/2/15

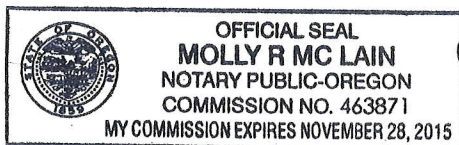
Silas Olson, CFO  
Signature of Water Utility Officer or Owner

State of Oregon \_\_\_\_\_ ) ss.

County of Yamhill \_\_\_\_\_ )

Silas Olson, being first duly sworn, deposes and says he/she is the Business Manager of Hiland Water Corp., the applicant in the foregoing application, that he/she has read said application, including all exhibits thereto, knows the contents thereof, and the same are true to the best of his/her knowledge and belief.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed my official seal this 2<sup>nd</sup> day of March, 2015.



Molly R. McLain  
Notary Public for Oregon

My commission expires: 11/28/2015



**MEMBERSHIP INTEREST PURCHASE AGREEMENT**

by and between

**AMERICANWEST BANK, as the Seller,**

and

**HILAND WATER CORP.,**

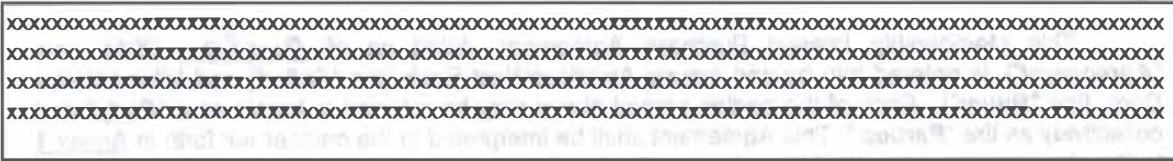
**as the Buyer**

dated as of

5/30 ], 2014



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**Annex 1**

**Rules of Interpretation and Defined Terms**

**Exhibits**

Exhibit A Form of Assignment and Sale of Membership Interests

**Schedules**

Schedule 3.5	Tax Exceptions
Schedule 7.3(e)	Description of Unassembled Treatment Plant and Storage Building





(iii) the amount of Cash on Hand of the Company (the "**Estimated Cash on Hand**"), calculated in each of clauses (i), (ii), and (iii), as if the day prior to the Closing Date were to be the date of such statement.

(b) Concurrently with the execution and delivery of this Agreement, and as a precondition to the effectiveness of this Agreement, Buyer shall deposit [xxxxxxx] with Seller (the "**Earnest Money Deposit**").

(c) Closing Date Payment Amount. At the Closing, the Buyer shall make payments, including the Closing Date Payment, in the manner set forth in Section 2.2(d). The "**Closing Date Payment**" is an amount equal to (i) the Purchase Price, plus (ii) Estimated Cash on Hand plus (iii) the amount of the Estimated Working Capital Adjustment, minus (iv) the Earnest Money Deposit.

(d) Payments at Closing. At the Closing, the Buyer shall pay to the Seller, an amount equal to the Closing Date Payment, to the bank account specified by the Seller to the Buyer in writing.

### 2.3 Post-Closing Adjustment.

(a) Closing Statement. As soon as practicable after the Closing Date, but no later than the 45th day following the Closing Date, the Buyer shall prepare and deliver to the Seller a closing statement, certified by an officer of the Buyer (the "**Closing Statement**"), setting forth, as of the close of business on the day immediately preceding the Closing Date: (i) Net Working Capital ("**Closing Net Working Capital**") based upon the Company's books and records, (ii) the amount of the Working Capital Adjustment (the "**Closing Working Capital Adjustment**"), and (iii) Cash on Hand ("**Closing Cash on Hand**"). The Buyer shall make available to the Seller all records and work papers used in preparing the Closing Statement.

(b) Disputes.

(i) If the Seller disagrees with the Buyer's calculation of any of the amounts or calculations set forth on the Closing Statement delivered pursuant to Section 2.3(a), the Seller may, within 30 days after delivery of the Closing Statement, deliver a notice to the Buyer providing reasonable detail of the reason for any disagreement, and setting forth the Seller's calculation of any such amount (a "**Notice of Disagreement**"). Any such Notice of Disagreement shall specify all items or amounts as to which the Seller disagrees, and the Seller shall be deemed to have agreed with all other items and amounts contained in the Closing Statement and the calculation of Closing Cash on Hand, Closing Net Working Capital and the Closing Working Capital Adjustment delivered pursuant to Section 2.3(a). During the 30-day period referenced above and the 15-day period referenced below in Section 2.3(b)(ii), the Buyer shall, and shall cause the Company to, on a timely basis, provide to the Seller and its authorized Representatives reasonable access to all records (and employees of the Buyer and the Company were involved in the preparation of the Closing Statement, including such access to facilities as is reasonably necessary to have such access to such employees) and the outside accountants and work papers and other documents used in preparing the Closing Statement.

(ii) If a Notice of Disagreement shall be properly delivered pursuant to Section 2.3(b)(i), the Seller and the Buyer shall, during the 15 days following such delivery, use their commercially reasonable efforts to reach agreement on the disputed items or amounts in order to determine, as may be required, the amounts set forth on



the Closing Statement. If during such period, the Seller and the Buyer are unable to reach such agreement, they shall promptly thereafter cause Winkelman-Bruce & Truax, LLP (the "**Referee**") to review the relevant portions of this Agreement and the disputed items or amounts for the purpose of calculating Closing Cash on Hand, Closing Net Working Capital and the Closing Working Capital Adjustment (it being understood that in making such calculation, the Referee shall be functioning as an expert and not as an arbitrator). In making such calculation, the Referee shall consider only those items or amounts in the Closing Statement and the Buyer's calculation of Closing Cash on Hand, Closing Net Working Capital, and the Closing Working Capital Adjustment as to which the Seller has disagreed in the Notice of Disagreement and which have not been resolved during such 15 day period. The Referee shall deliver to the Seller and the Buyer, as promptly as practicable (but in any case no later than 30 days from the date of engagement of the Referee), a report setting forth its calculation of Closing Cash on Hand, Closing Net Working Capital, and the Closing Working Capital Adjustment; *provided*, that the Referee may not assign a value to any item greater than the greatest value for such items claimed by either Party or less than the smallest value for such items claimed by either Party. Such report (or, alternatively, a resolution by agreement as referred to in the first sentence of this Section 2.3(b)(ii)) shall be final and binding on the Seller and the Buyer for purposes of computing the Final Adjustment Amount. The cost of any such review and report shall be borne 50% by the Buyer and 50% by the Seller.

(c) Final Adjustment Amount.

(i) For the purposes of this Agreement, the "**Final Adjustment Amount**" shall equal (A) the amount, if any, by which Closing Cash on Hand is greater than Estimated Cash on Hand, *minus* (B) the amount, if any, by which Closing Cash on Hand is less than Estimated Cash on Hand *plus* (C) the amount, if any, by which the Closing Working Capital Adjustment is greater than the Estimated Working Capital Adjustment, *minus* (D) the amount, if any, by which the Closing Working Capital Adjustment is less than the Estimated Working Capital Adjustment.

(ii) If the Final Adjustment Amount determined in accordance with this Section 2.3(c) is positive, the Buyer shall promptly deliver to the Seller the Final Adjustment Amount, in accordance with Section 2.3(c)(iv) below.

(iii) If the Final Adjustment Amount determined in accordance with this Section 2.3(c) is negative, the Seller shall deliver to the Buyer the absolute value of the Final Adjustment Amount, to the bank account specified by the Buyer to the Seller in writing.

(iv) Any payment pursuant to this Section 2.3(c) shall be made at a mutually convenient time and place as soon as practicable, but in no event later than three Business Days after the date on which the Final Adjustment Amount has been determined in accordance with this Section 2.3(c), by wire transfer of immediately available funds to the account(s) designated in writing by the Party or Parties entitled to such payment. No payment made pursuant to this Section 2.3(c) shall bear interest.

(v) The Final Adjustment Amount shall constitute an increase or a decrease of the Base Purchase Price, as applicable.



**2.4 Withholding Rights.** If the Buyer reasonably determines upon the written advice of its legal counsel that withholding of Taxes of the Seller is required by applicable Law in connection with any distribution or payment of any amounts under this Article II, the Buyer may withhold such Taxes from the amounts payable to a Seller if such Seller fails to submit to the Buyer any evidence reasonably requested by the Buyer in writing and reasonably in advance of the filing and remittance of such withholding to the effect that such withholding is not required. For all purposes of this Agreement, all such withheld amounts will be treated as having been paid to such Seller. The Buyer agrees to provide the Seller with a description of the amounts withheld and the reasons therefor within 10 Business Days of any such withholding.

**2.5 Purchase Price Allocation.** For all applicable income tax purposes, the purchase price for the Membership Interests shall be allocated among the assets of the Company as follows: xxxxxxx  
 These allocations have been agreed to by the Buyer and the Seller and have been prepared in accordance with principles set forth in Section 1060 of the Code and related Treasury Regulations. Neither the Seller nor the Buyer shall file any Tax Return or other document or otherwise take any position which is inconsistent with the allocation set forth in the Tax Allocation Schedule except as may be adjusted by subsequent agreement following an audit by the IRS or by court decision.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES REGARDING THE COMPANY**

Except as set forth in the Disclosure Schedules, the Seller represents and warrants to the Buyer that the statements contained in this Article III are true and correct as of the Closing.

**3.1 Organization, Authority and Qualification of the Company.** The Company is a limited liability company formed and validly existing under the Laws of the state of Oregon. The Company has all necessary limited liability company power and authority to own, operate or lease the properties and assets now owned, operated or leased by it and to carry on its business as it is currently conducted. The Company is duly licensed or qualified to do business and is in good standing in each jurisdiction in which the properties owned or leased by it or the operation of its business as currently conducted makes such licensing or qualification necessary, except where the failure to be so licensed, qualified or in good standing would not have a Material Adverse Effect.

#### **3.2 Capitalization.**

(a) **Equity Interests.** As of the date of this Agreement, all of the authorized Equity Interests of the Company consist of limited liability company membership interests, all of which are owned by the Seller.

(b) **Further Agreements.** The Seller has no obligation to make further payments for their purchase of Membership Interests or contributions to the Company solely by reason of their ownership of Membership Interests. There are no outstanding or authorized options, warrants, convertible securities or other rights, agreements, arrangements or commitments of any character relating to the Equity Interests of the Company or obligating the Seller to issue, sell, or purchase any Equity Interests of, or any other interest in, the Company. The Company does not have outstanding or authorized any Equity Interest appreciation, phantom Equity Interest, profit participation or similar rights. There are no voting trusts, stockholder agreements, proxies or other agreements or understandings in effect with respect to the voting or transfer of any of the Membership Interests.

**3.3 Subsidiaries.** The Company does not own, or have any Equity Interest or any other interest in any other Person.

**3.4 Employee Benefit Matters.** There exists no material benefit, retirement, employment, compensation, incentive, stock option, restricted stock, stock appreciation right, phantom equity, change in control, severance, vacation, paid time off and fringe-benefit agreement, plan, policy or program, whether or not reduced to writing, in effect and covering one or more Employees, former employees of the Company, current or former directors of the Company or the beneficiaries or dependents of any such Persons, that is maintained, sponsored, contributed to, or required to be contributed to by the Company, or under which the Company has any material liability for premiums or benefits.

**3.5 Taxes.**

(a) Except as set forth on Schedule 3.5:

(i) The Company has filed all material Tax Returns required to be filed (taking into account any valid extensions) by the Company. The Company is not currently the beneficiary of any extension of time within which to file any material Tax Return other than normal, timely obtained extensions of time to file Tax Returns. All Taxes due and owing by the Company have been paid.

(ii) No extensions or waivers of statutes of limitations are currently in effect with respect to any material Taxes of the Company.

(iii) There are no ongoing actions, suits, claims, investigations or other legal proceedings by any taxing authority against the Company.

(iv) The Company is not a party to any contract, agreement or other arrangement regarding the sharing or allocation of liability for Taxes or the payment of Taxes.

(v) All material Taxes which the Company is obligated to withhold from amounts owing to any employee, creditor or third party have been withheld and paid to the applicable taxing authority.

(b) The Company has not consummated or participated in: (i) any transaction which was or is a "tax shelter" transaction as defined in Section 6662 or 6111 of the Code or the Treasury Regulations promulgated thereunder; or (ii) a "listed transaction" within the meaning of Section 6707A(c) of the Code or Treasury Regulations Section 1.6011-4(b).

(c) The Company has, at all times during its existence, either been (i) disregarded as an entity separate from its sole owner for income Tax purposes pursuant to Treasury Regulations Section 301.7701-3, or (ii) property classified as a partnership for income Tax purposes pursuant to Treasury Regulations Section 301.7701-3.

(d) Except for certain representations related to Taxes in Section 3.4, the representations and warranties set forth in this Section 3.5 are the Seller's sole and exclusive representations and warranties regarding Tax matters, including any matters arising under any Laws applicable to Tax matters.



**3.6 No Other Representations and Warranties; Disclosures.** Except for the representations and warranties contained in this Article III (including the related portions of the Disclosure Schedules), none of the Seller, the Company or any other Person has made or makes any other express or implied representation or warranty, either written or oral, on behalf of the Seller or the Company, including any representation or warranty as to the accuracy or completeness of any information regarding the Company furnished or made available to the Buyer and its Representatives (including any information, documents or material made available to the Buyer in management presentations or in any other form in expectation of the transactions contemplated hereby) or as to the future revenue, profitability or success of the Company, or any representation or warranty arising from statute or otherwise in law and the Seller disclaims any other representations or warranties, whether made by the Seller, the Company, any of their Affiliates or any of their respective managers, officers, directors, employees, advisors, consultants, agents or representatives. The disclosure of any matter or item in any section of the Disclosure Schedules shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed.

#### **ARTICLE IV REPRESENTATIONS AND WARRANTIES OF THE SELLER**

The Seller represents and warrants to the Buyer that the statements contained in this Article IV are true and correct as of the Closing.

**4.1 Organization and Authority of a Seller.** The Seller is organized and validly existing under the Laws of the state of its organization. The Seller has all necessary corporate power and authority, as the case may be, to enter into this Agreement and the other Transaction Documents, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. If applicable, the execution and delivery by the Seller of this Agreement and the other Transaction Documents, the performance by the Seller of its obligations hereunder and thereunder and the consummation by the Seller of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of the Seller.

**4.2 Execution and Delivery; Enforceability.** This Agreement and the other Transaction Documents to which the Seller is a party have been duly executed and delivered by the Seller, and (assuming due authorization, execution and delivery by the other parties thereto) this Agreement and the other Transaction Documents to which the Seller is a party constitute legal, valid and binding obligations of the Seller, enforceable against the Seller in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

**4.3 No Conflicts; Consents.** The execution, delivery and performance of this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) if applicable, result in a violation or breach of any provision of the articles of incorporation, articles of formation, operating agreement, by-laws or other organizational document of the Seller; or (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to the Seller.

**4.4 Title to Membership Interests.** The Seller is the sole record and beneficial owner of and has good and valid title to all of the Membership Interests of the Company. The Seller owns all of such Membership Interests free and clear of all Encumbrances and there are no limitations or restrictions on such Seller's right to transfer such Membership Interests pursuant to this Agreement. Except for the transactions contemplated by this Agreement, there are no options, warrants, purchase



rights, convertible securities or other agreements or commitments (written or oral) obligating the Seller with respect to the Company's Equity Interests to transfer or sell, or cause the issuance, transfer or sale of, any such Equity Interests.

**4.5 Brokers.** Other than [ ], no broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Seller.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES OF BUYER**

The Buyer represents and warrants to the Seller that the statements contained in this Article V are true and correct as of the Closing.

**5.1 Organization and Authority of the Buyer.** The Buyer is a corporation, validly existing and in good standing under the Laws of the state of Oregon. The Buyer has all necessary corporate power and authority to enter into this Agreement and the other Transaction Documents, to carry out its obligations hereunder and thereunder and to consummate the transactions contemplated hereby and thereby. The execution and delivery by the Buyer of this Agreement and the other Transaction Documents, the performance by the Buyer of its obligations hereunder and thereunder and the consummation by the Buyer of the transactions contemplated hereby and thereby have been duly authorized by all requisite corporate action on the part of the Buyer. This Agreement and the other Transaction Documents have been duly executed and delivered by the Buyer, and (assuming due authorization, execution and delivery by the other parties thereto) this Agreement and the other Transaction Documents constitute legal, valid and binding obligations of the Buyer, enforceable against the Buyer in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar Laws affecting creditors' rights generally and by general principles of equity (regardless of whether enforcement is sought in a proceeding at law or in equity).

**5.2 No Conflicts; Consents.** The execution, delivery and performance by the Buyer of this Agreement and the other Transaction Documents, and the consummation of the transactions contemplated hereby and thereby, do not and will not: (a) result in a violation or breach of any provision of the organizational documents of the Buyer; (b) result in a violation or breach of any provision of any Law or Governmental Order applicable to the Buyer, or by which any of its properties or assets are bound; or (c) require the consent, notice or other action by any Person under, conflict with, result in a violation or breach of, constitute a default under or result in the acceleration of any agreement to which the Buyer is a party, except in the cases of clauses (b) and (c), where the violation, breach, conflict, default, acceleration or failure to give notice would not have a material adverse effect on the Buyer's ability to consummate the transactions contemplated hereby.

**5.3 Investment Purpose.** The Buyer is acquiring the Membership Interests solely for its own account for investment purposes and not with a view to, or for offer or sale in connection with, any distribution thereof. The Buyer acknowledges that the Membership Interests are not registered under the Securities Act, or any state securities laws, and that the Membership Interests may not be transferred or sold except pursuant to the registration provisions of the Securities Act or pursuant to an applicable exemption therefrom and subject to state securities laws and regulations, as applicable. The Buyer is an "accredited investor" as such term is defined in Rule 501(a) promulgated under the Securities Act. The Buyer is able to bear the economic risk of holding the Membership Interests for an indefinite period (including total loss of its investment), and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment.

**5.4 Brokers.** No broker, finder or investment banker is entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Buyer.

**5.5 Sufficiency of Funds.** The Buyer, at the Closing, will have sufficient funds to pay the Closing Date Payment and to pay all fees and expenses payable by the Buyer in connection with the transactions contemplated by this Agreement. The Buyer has provided to the Seller a detailed explanation of source(s) and timing of funding for the transactions contemplated by this agreement, including firm evidence that financing will remain available until the Closing.

**5.6 Independent Investigation.** The Buyer has conducted its own independent investigation, review and analysis of the business, results of operations, prospects, condition (financial or otherwise) or assets of the Company, and acknowledges that it has been provided adequate access to the personnel, properties, assets, premises, books and records, and other documents and data of the Company for such purpose. The Buyer acknowledges and agrees that: (a) in making its decision to enter into this Agreement and the other Transaction Documents and to consummate the transactions contemplated hereby and thereby, the Buyer has relied solely upon its own investigation and the express representations and warranties set forth in Article III and Article IV of this Agreement (including the related portions of the Disclosure Schedules); and (b) none of the Seller, the Company or any other Person has made any representation or warranty as to the Company or this Agreement or the other Transaction Documents, except as expressly set forth in Article III and Article IV of this Agreement (including the related portions of the Disclosure Schedules).

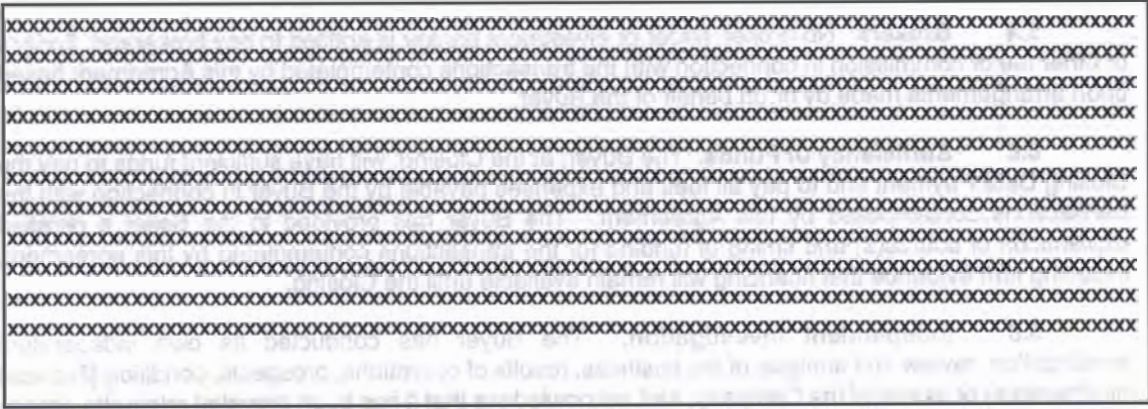
## ARTICLE VI COVENANTS

**6.1 Fire Suppression.** The Buyer agrees that it will, or will cause the Company to, following the Closing Date, continue indefinitely to install fire suppression capacity on all major lines (eight inches or greater) that run in close proximity to businesses, public buildings, schools, and other high risk facilities.

**6.2 Director and Officer Indemnification and Insurance.** The Buyer agrees that all rights to indemnification, advancement of expenses and exculpation by the Company now existing in favor of each Person who is now, or has been at any time prior to the date hereof or who becomes prior to the Closing Date, an officer, manager or director of the Company, as provided in the organizational documents of the Company, in each case as in effect on the date of this Agreement, or pursuant to any other agreements in effect on the date hereof shall survive the Closing Date and shall continue in full force and effect in accordance with their respective terms.

**6.3 Books and Records.** In order to facilitate the resolution of any claims made against or incurred by the Seller or the Company prior to the Closing or for any other reasonable purpose, for a period of six years after the Closing, the Buyer shall, and shall cause the Company to: (a) retain the books and records (including personnel files) of the Company relating to periods prior to the Closing in a manner reasonably consistent with the prior practices of the Company; and (b) upon reasonable notice, afford the Representatives of the Seller reasonable access (including the right to make, at the Seller's expense, photocopies), during normal business hours, to such books and records. The Buyer and the Company shall not be obligated to provide the Seller with access to any books or records (including personnel files) pursuant to this Section 6.3 where such access would violate any applicable Law.





**6.5 Further Assurances.** Following the Closing, each of the Parties hereto shall, and shall cause their respective Affiliates to, execute and deliver such additional documents, instruments, conveyances and assurances, and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated by this Agreement.

**6.6 Tax Matters.**

(a) **Tax Returns.**

(i) The Seller will prepare and file or cause to be prepared and filed, all Income Tax Returns for the Company for all Tax periods ending on or before the Closing Date that are due (giving effect to permitted extensions) after the Closing Date. All such Income Tax Returns will be prepared in a manner consistent with past practice of the Company, except to the extent otherwise clearly required by applicable Law. The Seller will deliver a copy of each such income Tax Return of the Company to the Buyer at least 15 days prior to the filing due date of such Tax Return (taking into account extensions) for the Buyer's review and comment, which comments shall be considered in good faith by the Seller. Notwithstanding anything in this Agreement to the contrary, the Parties acknowledge and agree that any and all Transaction Costs incurred by the Company, and any compensation deductions attributable to amounts paid or payable to employees or other service providers to the Company in connection with the transactions contemplated by this Agreement, shall be reflected on the Income Tax Returns of the Company for the Tax period ending on the Closing Date.

(ii) The Buyer will prepare and file or cause to be prepared and filed all Tax Returns for the Company required to be filed after the Closing Date, other than those Tax Returns described in Section 6.6(a)(i). The Seller's prior written consent will be required before filing each Tax Return described in the preceding sentence which relates to any Tax period or portion thereof ending on or prior to the Closing Date, which consent will not be unreasonably withheld, delayed or conditioned. All such Tax Returns will be prepared in a manner consistent with past practice of the Company, except to the extent otherwise clearly required by applicable Law.

(iii) Notwithstanding anything to the contrary in Article VIII, if the Buyer or the Company receives notice of any examination, claim, adjustment, or other administrative or judicial proceeding (a "**Tax Proceeding Notice**") with respect to any Taxes for which the Seller may have an indemnification obligation pursuant to Article VIII (a "**Tax Contest**"), then, notwithstanding anything to the contrary herein, the



Buyer will notify the Seller in writing thereof no later than the earlier of (i) 30 days after the receipt of the Tax Proceeding Notice, or (ii) ten days before the deadline for responding to the Tax Proceeding Notice (such notice, the "**Tax Notice**"). The Seller, at the expense of the Seller, shall be entitled to determine and control the conduct of any such Tax Contest; *provided* that the Seller notifies the Buyer in writing that it desires to do so not later than the earlier of (x) 20 days after receipt of the Tax Notice, or (y) five days before the deadline for responding to the Tax Proceeding Notice; and *provided further* that the Seller shall not settle any such Tax Contest without the prior written consent of the Buyer (which consent shall not be unreasonably withheld, delayed or conditioned).

(iv) Each of the Buyer, the Company, and the Seller shall cooperate fully, as and to the extent reasonably request by the other Party, in connection with the preparing or filing of any Tax Return and any audit or other proceeding with respect to Taxes. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information that are reasonably relevant to any such audit or other proceeding and making employees available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

(v) The obligations set forth in this Section 6.6(a) shall remain in effect for the statutory period during which the Taxes in question can be imposed.

(b) Transfer Taxes. Any transfer, documentary, sales, use, stamp, registration, value added and other such Taxes and fees (including any penalties and interest) incurred in connection with the transactions contemplated by this Agreement (including any real property transfer Tax and any other similar Tax), and any costs relating to the preparation of Tax Returns relating to any such Taxes and fees, shall be borne and paid by the Buyer. Either the Buyer or the Seller shall, as obligated by applicable Law, prepare and timely file any Tax Return or other document with respect to such Taxes or fees (and the other Party shall cooperate with respect thereto as necessary) and shall provide a copy of such Tax Return or other document to the nonpreparing Party.

**6.7 Conduct of Business Prior to the Closing.** From the date hereof until the Closing, except as otherwise provided in this Agreement, required by applicable Laws, or consented to in writing by the Buyer (which consent shall not be unreasonably withheld or delayed), the Seller shall, and shall cause the Company to conduct the business of the Company in the ordinary course of business, except as contemplated in this Agreement.

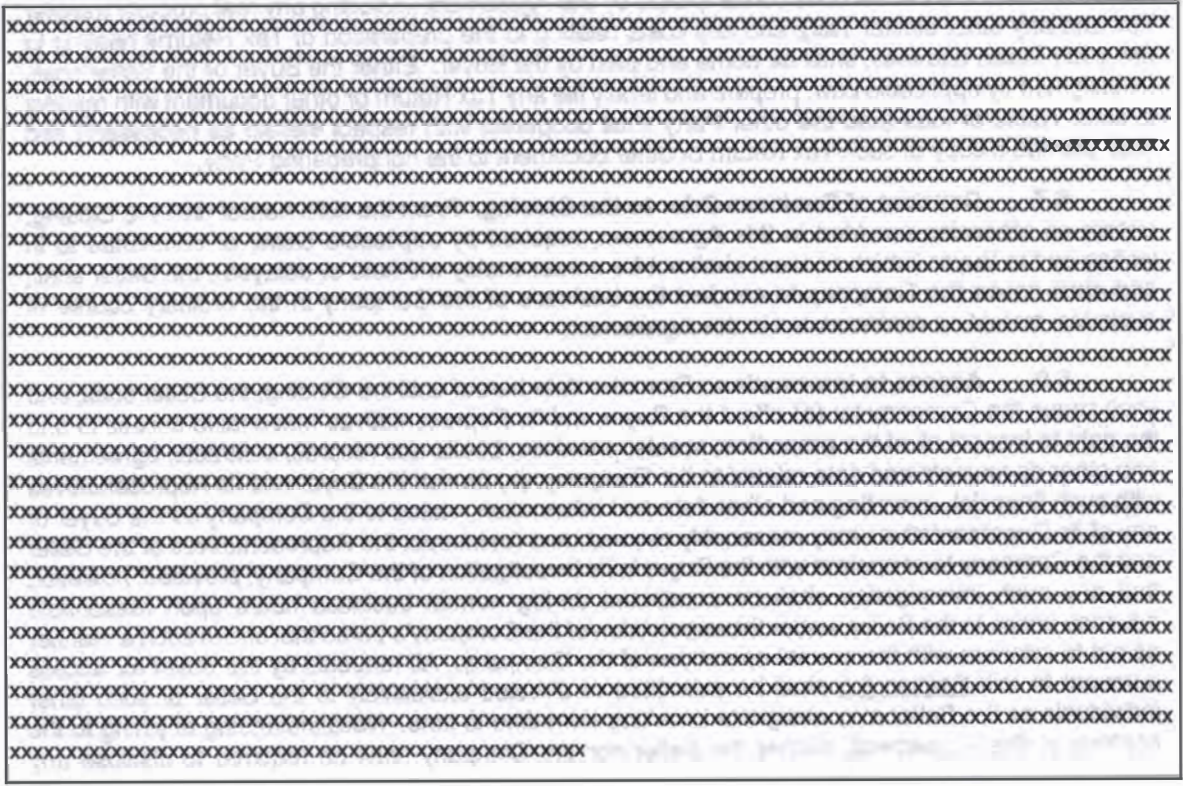
**6.9 Access to Information.** From the date hereof until the Closing, the Seller shall, and shall cause the Company to: (a) afford the Buyer and its Representatives reasonable access to and the right to inspect all of the properties, assets, premises, books and records, contracts, agreements and other documents and data related to the Company; (b) furnish the Buyer and its Representatives with such financial, operating and other data and information related to the Company as the Buyer or any of its Representatives may reasonably request; and (c) instruct the Representatives of the Seller and the Company to cooperate with the Buyer in its investigation of the Company; *provided, however*, that any such investigation shall be conducted during normal business hours upon reasonable advance notice to the Seller, under the supervision of the Company's personnel and in such a manner as not to interfere with the normal operations of the Company. All requests by the Buyer for access pursuant to this Section 6.8 shall be submitted or directed exclusively to the Seller or such other individuals as the Seller may designate in writing from time to time. Notwithstanding anything to the contrary in this Agreement, neither the Seller nor the Company shall be required to disclose any



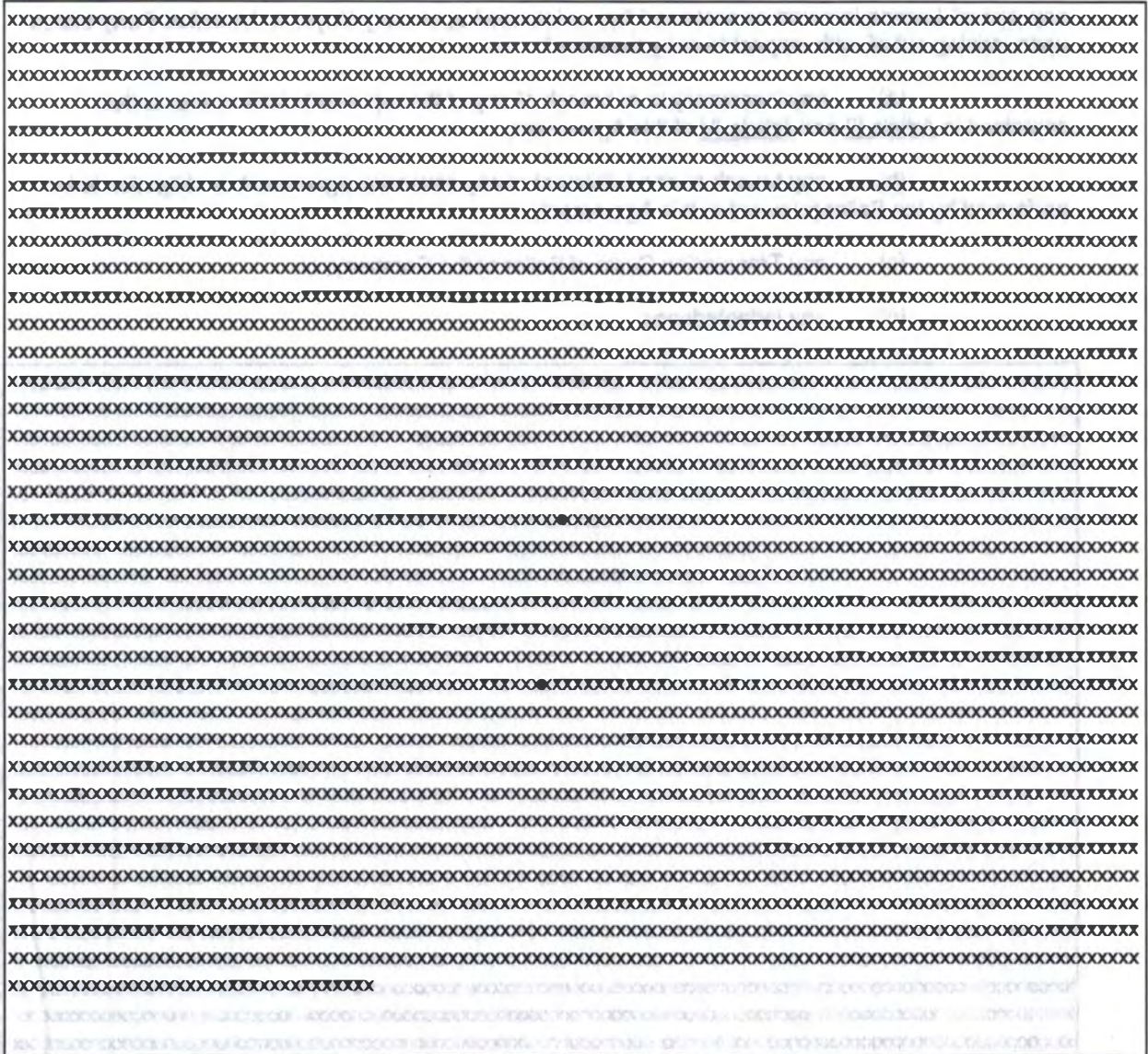
information to the Buyer if such disclosure would, in the Seller's sole discretion: (x) cause significant competitive harm to the Company and their respective businesses if the transactions contemplated by this Agreement are not consummated; (y) jeopardize any attorney-client or other privilege; or (z) contravene any applicable Law, fiduciary duty or binding agreement entered into prior to the date of this Agreement. Prior to the Closing, without the prior written consent of the Seller, which may be withheld for any reason, the Buyer shall not contact any suppliers to, or customers of, the Company and the Buyer shall have no right to perform invasive or subsurface investigations of any Real Property.

**6.10 Supplement to Disclosure Schedules.** From time to time prior to the Closing, the Seller shall have the right (but not the obligation) to supplement or amend the Disclosure Schedules hereto with respect to any matter hereafter arising or of which it becomes aware after the date hereof (each a "**Schedule Supplement**"), and each such Schedule Supplement shall be deemed to be incorporated into and to supplement and amend the Disclosure Schedules as of the Closing Date; *provided, however*, that in the event such event, development or occurrence which is the subject of the Schedule Supplement constitutes or relates to something that has had a Material Adverse Effect, then the Buyer shall have the right to terminate this Agreement for failure to satisfy the closing condition set forth in Section 7.2(a); *provided, further*, that if the Buyer has the right to, but does not elect to terminate this Agreement within five Business Days of its receipt of such Schedule Supplement, then the Buyer shall be deemed to have irrevocably waived any right to terminate this Agreement with respect to such matter under any of the conditions set forth in Section 7.2(a) and, further, shall have irrevocably waived its right to indemnification under Article VII with respect to such matter.

**6.11 Closing Conditions.** From the date hereof until the Closing, each Party hereto shall, and the Seller shall cause the Company to, use reasonable best efforts to take such actions as are necessary to expeditiously satisfy the closing conditions set forth in Article VII hereof.







**ARTICLE VIII  
INDEMNIFICATION**

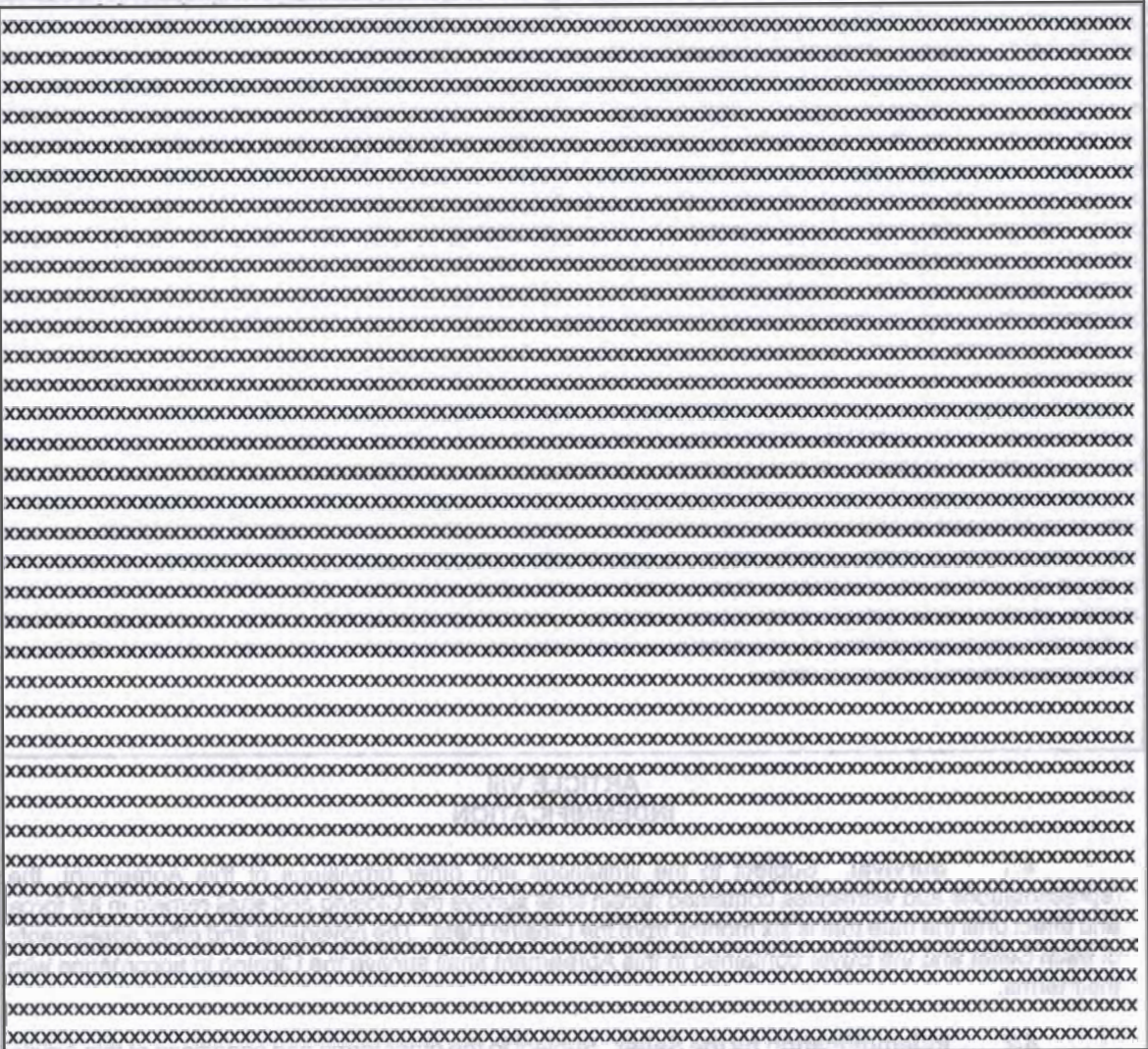
**8.1 Survival.** Subject to the limitations and other provisions of this Agreement, the representations and warranties contained herein shall survive the Closing and shall remain in full force and effect until the date that is six months from the Closing Date. The covenants and other agreements of each Seller and the Buyer contained in this Agreement shall survive the Closing in accordance with their terms.

**8.2 Indemnification by the Seller.** Subject to the other terms and conditions of this Article VIII, the Seller shall indemnify the Buyer, the Company and their Representatives (each a "**Buyer Indemnified Party**"), against, and shall hold each Buyer Indemnified Party harmless from and against,



any and all Losses incurred or sustained by, or imposed upon, any Buyer Indemnified Party based upon, arising out of, with respect to or by reason of:

- (a) any inaccuracy in or breach of any of the representations or warranties contained in Article III and Article IV of this Agreement;
- (b) any breach or non-fulfillment of any covenant, agreement or obligation to be performed by the Seller pursuant to this Agreement;
- (c) any Transaction Costs of Seller or the Company; or
- (d) any Indebtedness.



(d) In no event shall any Indemnifying Party be liable to any Indemnified Party for



any punitive, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value or any damages based on any type of multiple.

(e) Each Indemnified Party shall take, and cause its Affiliates to take, all reasonable steps to mitigate any Loss upon becoming aware of any event or circumstance that would be reasonably expected to, or does, give rise thereto, including incurring costs only to the minimum extent necessary to remedy the breach that gives rise to such Loss and including using commercially-reasonable efforts to recover under insurance policies or indemnity, contribution or other similar agreements for any Losses prior to seeking indemnification under this Agreement.

(f) No Buyer Indemnified Party shall be entitled to recover under this Article VIII, and no Losses related thereto shall be aggregated for purposes of satisfying the Basket, with respect to (i) any Loss arising solely as a result of any change in accounting policies, practices or procedures adopted by the Buyer or its Affiliates or (ii) any Loss that would not have arisen but for any alteration or repeal or enactment of any Law after the Closing Date.

#### **8.5 Indemnification Procedures.**

(a) Third-Party Claims. If any Indemnified Party receives notice of the assertion or commencement of any action, suit, claim or other legal proceeding made or brought by any Person (other than a claim for Taxes, which is addressed by Section 6.6) who is not a Party or an Affiliate of a Party or a Representative of the foregoing (a "Third-Party Claim") against such Indemnified Party with respect to which the Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnified Party shall give the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Third-Party Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have the right to participate in, or by giving written notice to the Indemnified Party, to assume the defense of any Third-Party Claim at the Indemnifying Party's expense and by the Indemnifying Party's own counsel, and the Indemnified Party shall cooperate in good faith in such defense. In the event that the Indemnifying Party assumes the defense of any Third-Party Claim, subject to Section 8.5(b), it shall have the right to take such action as it deems necessary to avoid, dispute, defend, appeal or make counterclaims pertaining to any such Third-Party Claim in the name and on behalf of the Indemnified Party. The Indemnified Party shall have the right, at its own cost and expense, to participate in the defense of any Third-Party Claim with counsel selected by it subject to the Indemnifying Party's right to control the defense thereof. If the Indemnifying Party elects not to compromise or defend such Third-Party Claim or fails to promptly notify the Indemnified Party in writing of its election to defend as provided in this Agreement, the Indemnified Party may, subject to Section 8.5(b), pay, compromise, defend such Third-Party Claim and seek indemnification for any and all Losses based upon, arising from or relating to such Third-Party Claim. The Seller and the Buyer shall cooperate with each other in all reasonable respects in connection with the defense of any Third-Party Claim, including making available records relating to such Third-Party Claim and furnishing, without expense (other than reimbursement of actual out-of-pocket expenses) to the defending Party, management employees of the non-defending Party as may be reasonably necessary for the preparation of the defense of such Third-Party Claim.

(b) Settlement of Third-Party Claims. Notwithstanding any other provision of this Agreement, the Indemnifying Party shall not enter into settlement of any Third-Party Claim without the



prior written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed), except as provided in this Section 8.5(b). If a firm offer is made to settle a Third-Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnified Party and provides, in customary form, for the unconditional release of each Indemnified Party from all liabilities and obligations in connection with such Third-Party Claim and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party shall give written notice to that effect to the Indemnified Party. If the Indemnified Party fails to consent to such firm offer within 10 days after its receipt of such notice, the Indemnified Party may continue to contest or defend such Third-Party Claim and in such event, the maximum liability of the Indemnifying Party as to such Third-Party Claim shall not exceed the amount of such settlement offer. If the Indemnified Party fails to consent to such firm offer and also fails to assume defense of such Third-Party Claim, the Indemnifying Party may settle the Third-Party Claim upon the terms set forth in such firm offer to settle such Third-Party Claim. If the Indemnified Party has assumed the defense pursuant to Section 8.5(a), it shall not agree to any settlement without the written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(c) Direct Claims. Any claim by an Indemnified Party on account of a Loss which does not result from a Third-Party Claim (a "**Direct Claim**") shall be asserted by the Indemnified Party giving the Indemnifying Party prompt written notice thereof. The failure to give such prompt written notice shall not, however, relieve the Indemnifying Party of its indemnification obligations, except and only to the extent that the Indemnifying Party forfeits rights or defenses by reason of such failure. Such notice by the Indemnified Party shall describe the Direct Claim in reasonable detail, shall include copies of all material written evidence thereof and shall indicate the estimated amount, if reasonably practicable, of the Loss that has been or may be sustained by the Indemnified Party. The Indemnifying Party shall have 30 days after its receipt of such notice to respond in writing to such Direct Claim. During such 30-day period, the Indemnified Party shall allow the Indemnifying Party and its Representatives to investigate the matter or circumstance alleged to give rise to the Direct Claim, and whether and to what extent any amount is payable in respect of the Direct Claim and the Indemnified Party shall assist the Indemnifying Party's investigation by giving such information and assistance (including access to the Company's premises and personnel and the right to examine and copy any accounts, documents or records) as the Indemnifying Party or any of its professional advisors may reasonably request. If the Indemnifying Party does not so respond within such 30-day period, the Indemnifying Party shall be deemed to have rejected such claim, in which case the Indemnified Party shall be free to pursue such remedies as may be available to the Indemnified Party on the terms and subject to the provisions of this Agreement.

**8.6 Tax Treatment of Indemnification Payments.** All indemnification payments made under this Agreement shall be treated by the Parties as an adjustment to the purchase price for Tax purposes, unless otherwise required by Law.

**8.7 Exclusive Remedies.** The Parties acknowledge and agree that their sole and exclusive remedy with respect to any and all claims (other than claims arising from intentional fraud) on the part of a Party hereto in connection with the transactions contemplated by this Agreement for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement, shall be pursuant to the indemnification provisions set forth in this Article VIII. In furtherance of the foregoing, each Party hereby waives, to the fullest extent permitted under Law, any and all rights, claims and causes of action for any breach of any representation, warranty, covenant, agreement or obligation set forth herein or otherwise relating to the subject matter of this Agreement it may have against the other Parties and their Affiliates and each of their respective Representatives arising under or based upon any Law, except pursuant

to the indemnification provisions set forth in this Article VIII. Nothing in this Section 8.7 shall limit any Person's right to seek any remedy on account of intentional fraud by any Person.

## ARTICLE IX TERMINATION

**9.1 Termination.** This Agreement may be terminated at any time prior to the Closing:

(a) by the mutual written consent of the Seller and the Buyer;

(b) by the Buyer by written notice to the Seller if:

(i) the Buyer is not then in material breach of any provision of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by the Seller pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VII, and such breach, inaccuracy or failure cannot be cured by the Seller within 10 days of the Seller's receipt of written notice of such breach from the Buyer; or

(ii) on or prior to April 11, 2014, Buyer provides Seller notice that it is not satisfied with its due diligence of the Company and terminates this Agreement; or

(iii) any of the conditions set forth in Section 7.1 or Section 7.2 shall not have been fulfilled by the Outside Date, unless such failure shall be due to the failure of the Buyer to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by it prior to the Closing;

(c) by the Seller by written notice to the Buyer if:

(i) the Seller is not then in material breach of any provision of this Agreement and there has been a material breach, inaccuracy in or failure to perform any representation, warranty, covenant or agreement made by the Buyer pursuant to this Agreement that would give rise to the failure of any of the conditions specified in Article VII and such breach, inaccuracy or failure cannot be cured by the Buyer within 10 days of the Buyer's receipt of written notice of such breach from the Seller; or

(ii) any of the conditions set forth in Section 7.1 or Section 7.3 shall not have been fulfilled by the Outside Date, unless such failure shall be due to the failure of the Seller to perform or comply with any of the covenants, agreements or conditions hereof to be performed or complied with by them prior to the Closing; or

(d) by the Buyer or the Seller in the event that: (i) there shall be any Law that makes consummation of the transactions contemplated by this Agreement illegal or otherwise prohibited; or (ii) any Governmental Authority shall have issued a Governmental Order restraining or enjoining the transactions contemplated by this Agreement, and such Governmental Order shall have become final and non-appealable.

**9.2 Effect of Termination.**

(a) Except as provided in Section 6.4, and this Section 9.2, in the



event of the termination of this Agreement in accordance with this Article IX, this Agreement shall forthwith become void and there shall be no liability on the part of any Party except that nothing herein shall relieve any Party hereto from liability for breaches of any provision hereof or for fraud.

(b) If the Buyer timely terminates this Agreement pursuant to Section 9.1(b)(i) or Section 9.1(b)(ii), the Seller shall return the Earnest Money Deposit to the Buyer; otherwise, the Buyer shall be entitled to retain the Earnest Money Deposit.

## ARTICLE X MISCELLANEOUS

**10.1 Expenses.** Except as otherwise expressly provided herein (including Section 6.6(a) hereof), all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with this Agreement, the other Transaction Documents and the transactions contemplated hereby and thereby shall be paid by the Party incurring such costs and expenses, whether or not the Closing shall have occurred.

**10.2 Notices, Consents, etc.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the addresses indicated below (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.2).

If to the Seller:

AmericanWest Bank  
41 W. Riverside Ave.  
Suite 300  
Spokane, WA 99201  
Attention: Michael E. Koch  
Email: [mike.koch@awbank.net](mailto:mike.koch@awbank.net) with a copy (which

copy shall not constitute notice) to:

K&L Gates LLP  
One SW Columbia Street, Suite 1900  
Portland, OR 97258  
Attention: R. Gibson Masters, Esq.  
Facsimile: (503) 248-9085  
Email: [Gibson.Masters@klgates.com](mailto:Gibson.Masters@klgates.com)

If to the Buyer:

Hiland Water Corporation  
PO Box 699

Newberg, OR 97132  
Attention: Silas Olson  
Email: silas@hilandwater.com

with a copy (which copy shall not constitute notice) to:

Greene & Markley, P.C.  
1515 SW Fifth Avenue, Suite 600 Portland, OR 97201  
Attention: Gary L. Blacklidge, Esq.  
Facsimile: (503) 224-8434  
Email: [gary.blacklidge@greenemarkley.com](mailto:gary.blacklidge@greenemarkley.com)

**10.3 Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**10.4 Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

**10.5 Entire Agreement.** This Agreement, together with the other Transaction Documents, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous representations, warranties, understandings and agreements, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement, the Exhibits and Disclosure Schedules (other than an exception expressly set forth as such in the Disclosure Schedules), the statements in the body of this Agreement will control.

**10.6 Successors and Assigns.** This Agreement and the other Transaction Documents shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns. No Party may assign its rights or obligations hereunder without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed; *provided*, that the Buyer may assign its rights, interests or obligations hereunder without such consent for the purpose of securing any financing in relation to the Agreement.

**10.7 No Third-Party Beneficiaries.** Except as provided in [Section 6.2](#) and [Article VIII](#), this Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**10.8 Amendment and Modification; Waiver.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by the Seller (on behalf of the Seller) and the Buyer. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such



written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

**10.9 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.**

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Oregon without giving effect to any choice or conflict of law provision or rule (whether of the State of Oregon or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Oregon.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA OR THE COURTS OF THE STATE OF OREGON IN EACH CASE LOCATED IN THE CITY OF MEDFORD AND COUNTY OF JACKSON, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY TO THIS AGREEMENT CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT SEEK TO ENFORCE THE FOREGOING WAIVER IN THE EVENT OF A LEGAL ACTION, (B) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (C) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (D) SUCH PARTY HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 10.9.

**10.10 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

**10.11 Non-recourse.** This Agreement may only be enforced against, and any claim, action, suit or other legal proceeding based upon, arising out of, or related to this Agreement, or the negotiation, execution or performance of this Agreement, may only be brought against the entities that



are Parties hereto and then only with respect to the specific obligations set forth herein with respect to such Party. No past, present or future director, officer, employee, incorporator, manager, member, partner, stockholder, Affiliate, agent, attorney or other Representative of any Party or of any Affiliate of any Party, or any of their successors or permitted assigns, shall have any liability for any obligations or liabilities of any Party under this Agreement or for any claim or Action based on, in respect of or by reason of the transactions contemplated hereby.

*[Signature Page Follows]*

*[Faint signature and text visible through the paper]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

THE SELLER:

AMERICANWEST BANK

By: 

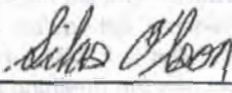
Name: MICHAEL E KOCH

Its: EVP



THE BUYER:

HILAND WATER CORP.

By:   
Name: Silas Olson  
Title: Business Manager

Witnessed by:

Witnessed by: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Witnessed by: \_\_\_\_\_  
Name: \_\_\_\_\_  
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Witnessed by: \_\_\_\_\_

## Annex 1

### Rules of Interpretation and Definitions

**Interpretive Matters.** Unless the context otherwise requires, (a) all references to Articles, Sections, Annexes, Disclosure Schedules, Schedules or Exhibits shall mean and refer to Articles, Sections, Annexes, Schedules or Exhibits in this Agreement, (b) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with GAAP, (c) words in the singular or plural include the singular and plural, and pronouns stated in either the masculine, feminine or neuter gender shall include the masculine, feminine and neuter, (d) the term "including" shall mean "including, without limitation," (i.e., by way of example and not by way of limitation), (e) all references to statutes and related regulations shall include all amendments of the same and any successor or replacement statutes and regulations, (f) references to "hereof", "herein", "hereby" and similar terms shall refer to this entire Agreement (including the Disclosure Schedules, Annexes and Exhibits hereto) (g) references to any Person shall be deemed to mean and include the successors and permitted assigns of such Person (or, in the case of a Governmental Authority, Persons succeeding to the relevant functions of such Person) and (h) whenever this Agreement refers to a number of days, such number shall refer to calendar days, unless such reference is specifically to "Business Days."

**Definitions.** As used in this Agreement:

**"Action"** means any demand, action, suit, proceeding, litigation, controversy, mediation, hearing, claim, arbitration, assessment, investigation, hearing, subpoena, audit notice of violation or non-compliance, or legal, administrative or other proceeding (including appeals) of, in, by or before any Governmental Authority or other mediator or arbitration panel, at law or in equity.

**"Affiliate"** of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

**"Agreement"** has the meaning set forth in the preamble.

**"Basket"** has the meaning set forth in Section 8.4(a).

**"Business Day"** means any day except Saturday, Sunday or any other day on which commercial banks located in Medford, Oregon are authorized or required by Law to be closed for business.

**"Buyer"** has the meaning set forth in the preamble.

**"Buyer Indemnified Party"** has the meaning set forth in Section 8.2.

**"Cash on Hand"** means, as of any date, all cash and cash equivalents, calculated as of the close of business on such date, determined in accordance with GAAP.

**"Closing"** has the meaning set forth in Section 1.2.

**"Closing Cash on Hand"** has the meaning set forth in Section 2.3(a).

**"Closing Date"** has the meaning set forth in Section 1.2.

**"Closing Date Payment"** has the meaning set forth in Section 2.2(b).

**"Closing Net Working Capital"** has the meaning set forth in Section 2.3(a).

**"Closing Statement"** has the meaning set forth in Section 2.3(a).

**"Closing Working Capital Adjustment"** has the meaning set forth in Section 2.3(a).

**"Code"** means the Internal Revenue Code of 1986, as amended.

**"Company"** has the meaning set forth in the recitals.

**"Direct Claim"** has the meaning set forth in Section 8.5(c).

**"Disclosure Schedules"** means the Disclosure Schedules delivered by the Seller concurrently with the execution and delivery of this Agreement.

**"Dollars"** or **"\$"** means the lawful currency of the United States.

**"Employees"** means those Persons employed by the Company immediately prior to the Closing.

**"Encumbrance"** means any lien, pledge, mortgage, deed of trust, security interest, charge, claim, easement, encroachment or other similar encumbrance.

**"Equity Interests"** means (i) any partnership interests, (ii) any membership interests or units, (iii) any shares of capital stock, (iv) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distribution of assets of, the issuing entity, (v) any subscriptions, calls, warrants, options, or commitments of any kind or character relating to, or entitling any Person or entity to purchase or otherwise acquire membership interests or units, capital stock, or any other equity securities, (vi) any securities convertible into or exercisable or exchangeable for partnership interests, membership interests or units, capital stock, or any other equity securities, or (vii) any other interest classified as an equity security of a Person.

**"ERISA"** means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

**"Estimated Cash on Hand"** has the meaning set forth in Section 2.2(a).

**"Estimated Working Capital Adjustment"** has the meaning set forth in Section 2.2(a).

**"Final Adjustment Amount"** has the meaning set forth in Section 2.3(c)(i).

**"GAAP"** means United States generally accepted accounting principles in effect from time to time.

**"Governmental Authority"** means any federal, state, local or foreign government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, or any self-regulated organization or other non-governmental regulatory authority or quasigovernmental authority (to the extent that the rules, regulations or orders of such organization or authority have the force of Law), or any arbitrator, court or tribunal of competent jurisdiction.



**"Governmental Order"** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

**"Income Tax Return"** means any return, declaration, report, claim for refund, information return or statement or other document required to be filed with respect to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

**"Indebtedness"** means, with respect to any Person, all liabilities in respect of: (i) borrowed money; (ii) indebtedness evidenced by bonds, debentures or similar instruments; (iii) capitalized lease obligations; (iv) the deferred purchase price of assets, services or securities (other than trade accounts payable, but including "earn-out" payments, whether or not matured, and seller notes); (v) conditional sale or other title retention agreements; (vi) the factoring or discounting of accounts receivable; (vii) swap or hedging agreements or arrangements; (viii) reimbursement obligations, whether contingent or matured, with respect to letters of credit, bankers' acceptances, bank overdrafts, surety bonds, other financial guarantees and interest rate protection agreements (without duplication of other indebtedness supported or guaranteed thereby); (ix) indebtedness secured by an Encumbrance on the assets or properties of such Person; (x) obligations or commitments to repay deposits or other amounts advanced by and owing to third parties; (xi) interest, premium, penalties and other amounts owing in respect of the items described in the foregoing clauses (i) through (x); and (xii) all Indebtedness of the types referred to in clauses (i) through (x) guaranteed in any manner by such Person (including through make-whole, take-or-pay or keep-well agreements), whether or not any of the foregoing would appear on a consolidated balance sheet prepared in accordance with GAAP.

**"Indemnified Party"** has the meaning set forth in Section 8.4.

**"Indemnifying Party"** has the meaning set forth in Section 8.4.

**"Inventory"** means all inventory, finished goods, raw materials, work in progress, packaging, supplies, parts and other inventories.

**"Law"** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any Governmental Authority.

**"Losses"** means actual out-of-pocket losses, damages, liabilities, costs or expenses.

**"Material Adverse Effect"** means any event, occurrence, fact, condition or change that is materially adverse to (a) the business, results of operations, financial condition or assets of the Company, taken as a whole, or (b) the ability of the Seller to consummate the transactions contemplated hereby; *provided, however*, that **"Material Adverse Effect"** shall not include any event, occurrence, fact, condition or change, directly or indirectly, arising out of or attributable to: (i) any changes, conditions or effects in the United States or foreign economies or securities or financial markets in general; (ii) changes, conditions or effects that affect the industries in which the Company operates; (iii) any change, effect or circumstance resulting from an action required or permitted by this Agreement; (iv) any matter of which the Buyer is aware on the date hereof; (v) the effect of any changes in applicable Laws or accounting rules, including GAAP; (vi) any change, effect or circumstance resulting from the announcement of this Agreement; or (vii) conditions caused by acts of terrorism or war (whether or not declared) or any natural or man-made disaster or other acts of God.

**"Membership Interests"** has the meaning set forth in the recitals.

**"Net Working Capital"** means, at any date, the excess of (i) the sum of the consolidated current assets of the Company, accounts receivable, inventory, prepaid expenses and other current assets, but excluding Cash on Hand and any deferred Tax assets, over (ii) the sum of consolidated current liabilities of the Company, as of such date, but excluding any amounts that relate to Indebtedness for borrowed money or interest thereon which would otherwise be included within the consolidated current liabilities, any deferred Tax liabilities and any management or similar fees. Net Working Capital shall be calculated using the same accounting principles used to prepare the Closing Statement.

**"Notice of Disagreement"** has the meaning set forth in Section 2.3(b)(i).

**"Outside Date"** means April 17, 2014.

**"Party"** and/or **"Parties"** has the meaning set forth in the preamble.

**"Person"** means an individual, corporation, partnership, joint venture, limited liability company, Governmental Authority, unincorporated organization, trust, association or other entity.

**"Real Property"** means the real property owned, leased or subleased by the Company, together with all buildings, structures and facilities located thereon.

**"Referee"** has the meaning set forth in Section 2.3(b)(ii).

**"Representative"** means, with respect to any Person, any and all directors, officers, employees, consultants, financial advisors, financing sources, counsel, accountants and other agents of such Person.

**"Schedule Supplement"** has the meaning set forth in Section 6.9.

**"Securities Act"** means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

**"Seller"** has the meaning set forth in the preamble.

**"Seller Indemnified Party"** has the meaning set forth in Section 8.3.

**"Seller's Knowledge"** means the actual knowledge of the Seller.

**"Tax Allocation Schedule"** has the meaning set forth in Section 2.5.

**"Tax Contest"** has the meaning set forth in Section 6.6(a)(iii).

**"Tax Notice"** has the meaning set forth in Section 6.6(a)(iii).

**"Tax Proceeding Notice"** has the meaning set forth in Section 6.6(a)(iii).

**"Taxes"** means all federal, state, local, foreign and other income, gross receipts, sales, use, production, ad valorem, transfer, franchise, registration, profits, license, lease, service, service use, withholding, payroll, employment, unemployment, estimated, excise, severance, environmental, stamp, occupation, premium, property (real or personal), real property gains, windfall profits, customs, duties or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest, additions or penalties with respect thereto and any interest in respect of such additions or penalties.



**"Third-Party Claim"** has the meaning set forth in Section 8.5(a).

**"Transaction Costs"** means (i) all fees and expenses of counsel, financial advisors, investment bankers, brokers, finders, accountants, consultants and other advisors and service providers to any Party incurred in connection with the transactions contemplated by the Transaction Documents; (ii) any and all amounts owed under any contract arising from or triggered by the consummation of such transactions, and (iii) all sale, success, stay or other compensatory payments or transaction bonuses or discretionary bonuses (including all such amounts accrued through the Closing Date) and related change-of-control payments or severance arrangements payable to directors, officers, employees and consultants of any of the Company, or any obligations of the Company that would become due and owing under employment, severance or similar agreements or arrangements, in each case at the Closing as a result of the consummation of the transactions contemplated hereunder or at the discretion of the Company.

**"Transaction Documents"** means this Agreement and each other document, certificate and instrument being delivered pursuant to this Agreement.

**"Working Capital Adjustment"** means the number calculated on the basis of the Net Working Capital, as determined in accordance with Section 2.3, as follows:

(a) if Net Working Capital is greater than \$0, then the Working Capital Adjustment is a positive number equal to such excess; and

(b) if Net Working Capital is less than \$0, then the Working Capital Adjustment is a negative number equal to such deficit.

**EXHIBIT A**

**FORM OF ASSIGNMENT AND SALE OF MEMBERSHIP INTERESTS**  
**\_\_\_\_\_, 2014**

**1. Assignment and Sale.** AmericanWest Bank ("Assigning Party") hereby assigns and transfers to Hiland Water Corp., an Oregon corporation ("Assignee"), all of the outstanding membership interests of Shady Cove Waterworks, LLC, an Oregon limited liability company (the "Membership Interests"). The execution and delivery of this Assignment and Sale of Membership Interests is a condition to the consummation of the transactions contemplated by that certain Membership Interest Purchase Agreement dated as of \_\_\_\_\_, 2014 (the "Purchase Agreement") by and between Assigning Party and Assignee, and the effectiveness of this Assignment and Sale of Membership Interests is contingent upon the Closing of the transactions contemplated by the Purchase Agreement, as defined therein.

**2. Governing Law.** This Assignment and Sale of Membership Interests is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle of any jurisdiction.

**3. Assignee's Acceptance.** Assignee accepts the Membership Interests subject to the terms and conditions in this Assignment and Sale of Membership Interests.

*[Signatures on Following Page]*



IN WITNESS WHEREOF, each of Assigning Party and Assignee has caused this Assignment and Sale of Membership Interests to be executed on the date first set forth above.

FORM OF ASSIGNMENT AND SALE OF MEMBERSHIP INTERESTS  
2014

ASSIGNING PARTY:

AmericanWest Bank

By: \_\_\_\_\_ Name:  
Title: \_\_\_\_\_

*Sample*

ASSIGNEE:

Hiland Water Corp.

By: \_\_\_\_\_ Name:  
Title: \_\_\_\_\_

AMERICANWEST BANK  
MEMBERSHIP INTEREST PURCHASE AGREEMENT

BY THE SELLER (AMERICANWEST BANK) AND THE BUYER (HILAND WATER CORP.)

**DISCLOSURE SCHEDULES TO  
MEMBERSHIP INTEREST PURCHASE AGREEMENT**

by and among

**AMERICANWEST BANK  
as the Seller,**

and

**HILAND WATER CORP.  
as the Buyer**



**SCHEDULE 3.5**  
**TAX EXCEPTIONS**

The Company has not filed any independent tax returns.

DISCLOSURE SCHEDULES TO  
MEMBERSHIP INTEREST PURCHASE AGREEMENT

by and among

AMERICANWEST BANK  
as the Seller,

and

HILAND WATER CORP.  
as the Buyer.

**SCHEDULE 7.3(e)**

**DESCRIPTION OF UNASSEMBLED TREATMENT PLANT AND STORAGE BUILDING**

Treatment Plant #2 (0.5 MGD in Storage) PALL Arian AP-4, currently located at 1225 Avenue "C", White City, OR 97503, consisting of the following:

11 Boxes and/or Crates

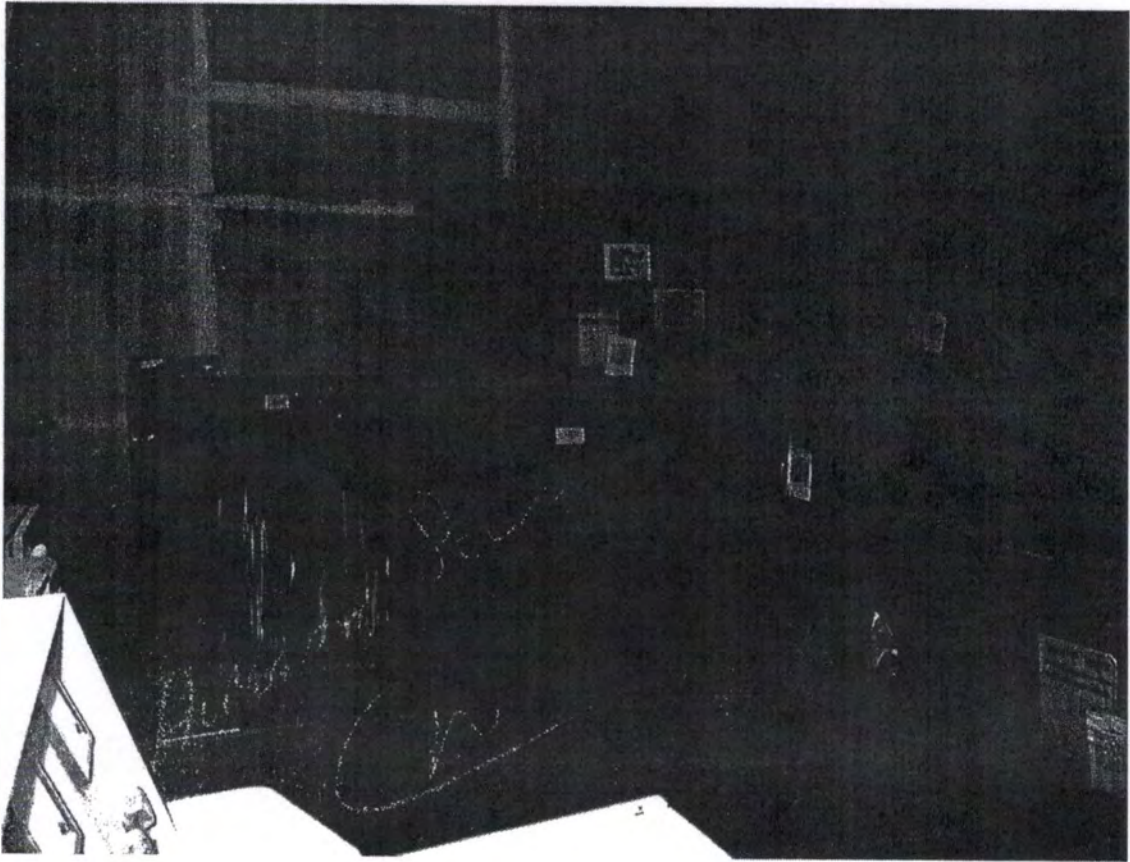
1 Blue Tank

1 Clear Large Tank

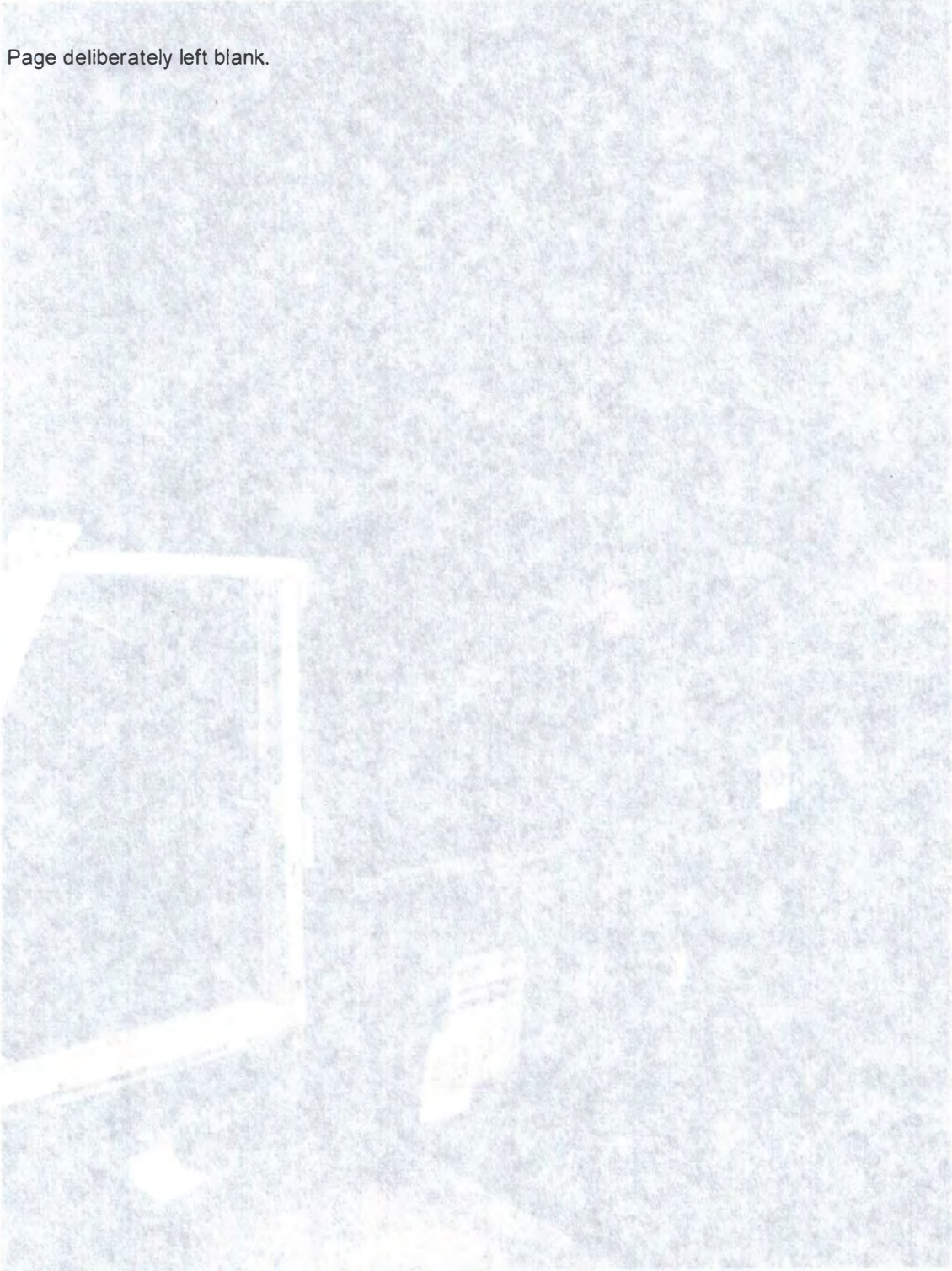
See attached pictures

*Aug 2001*  
*John*  
*(W)*





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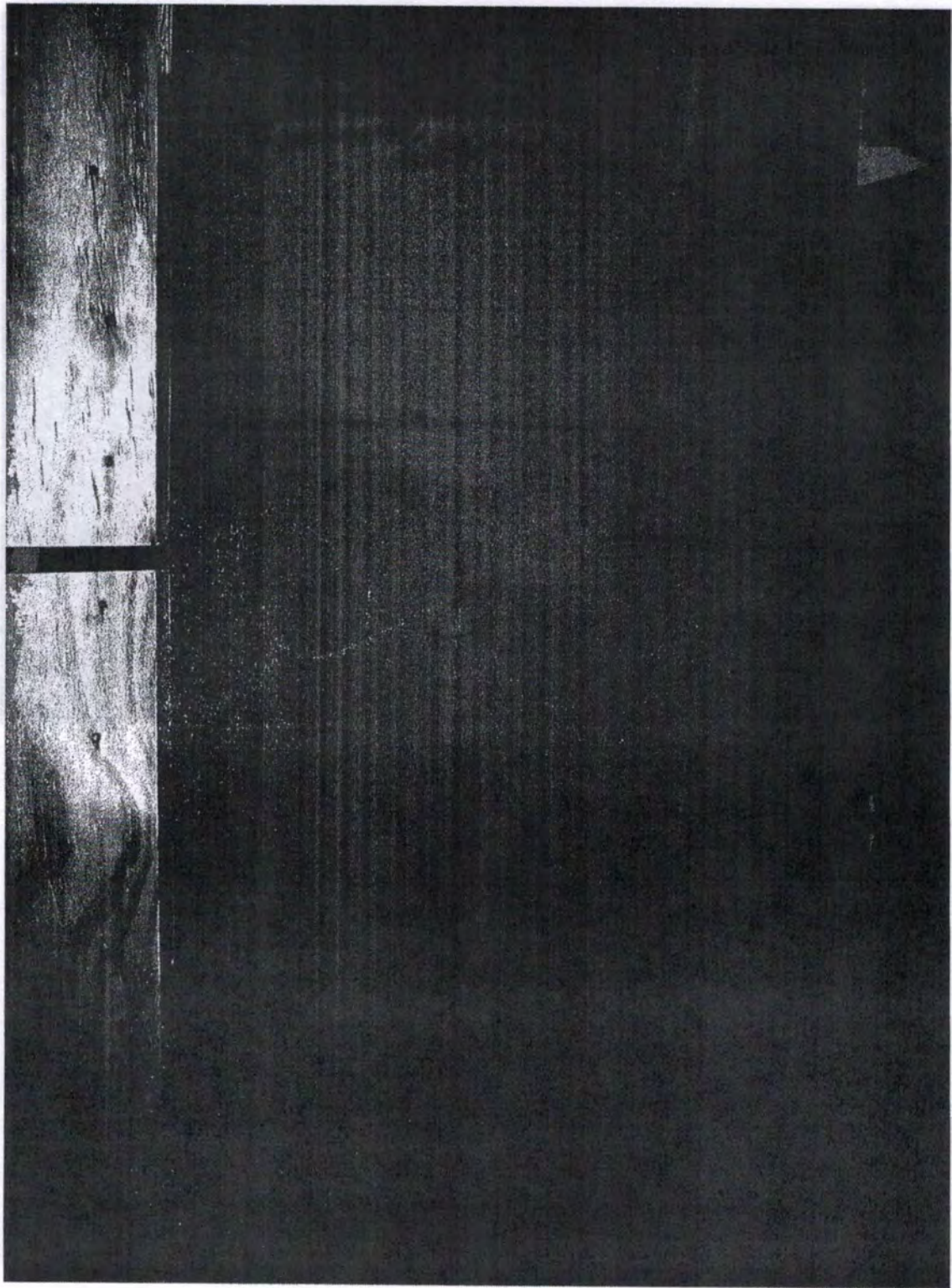


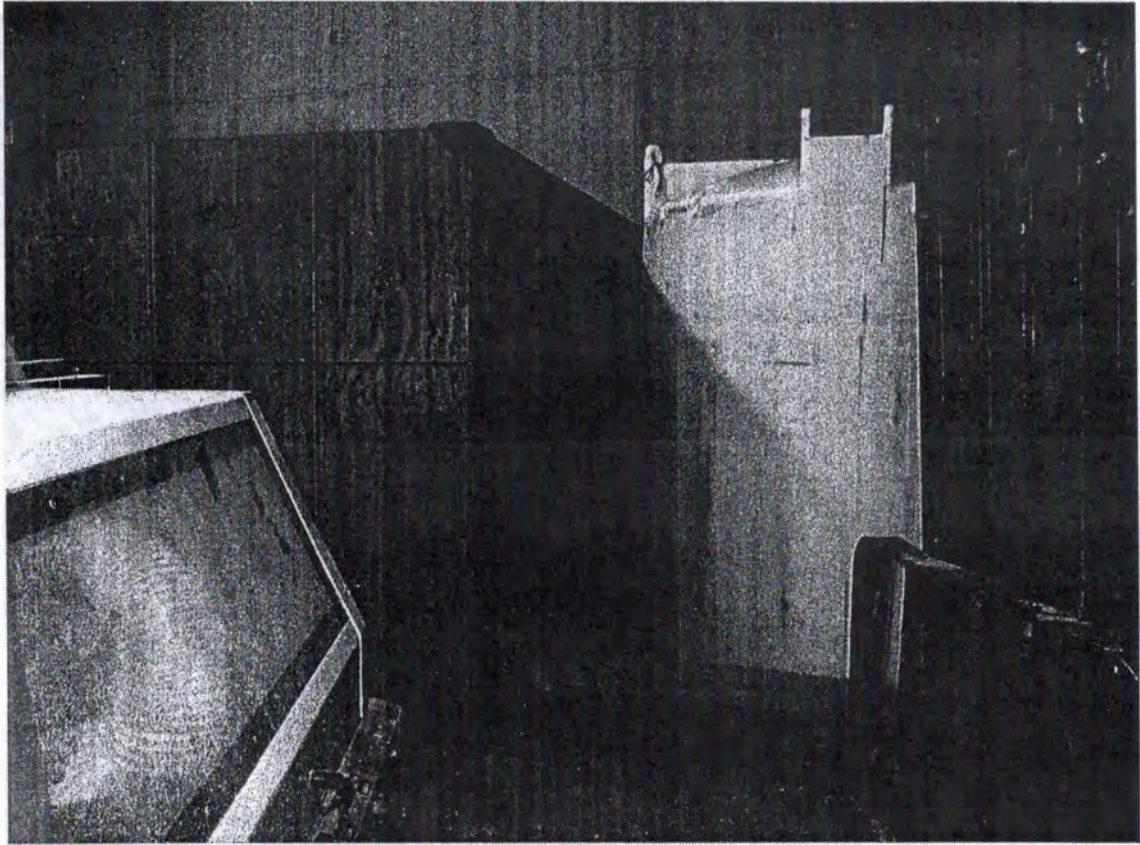




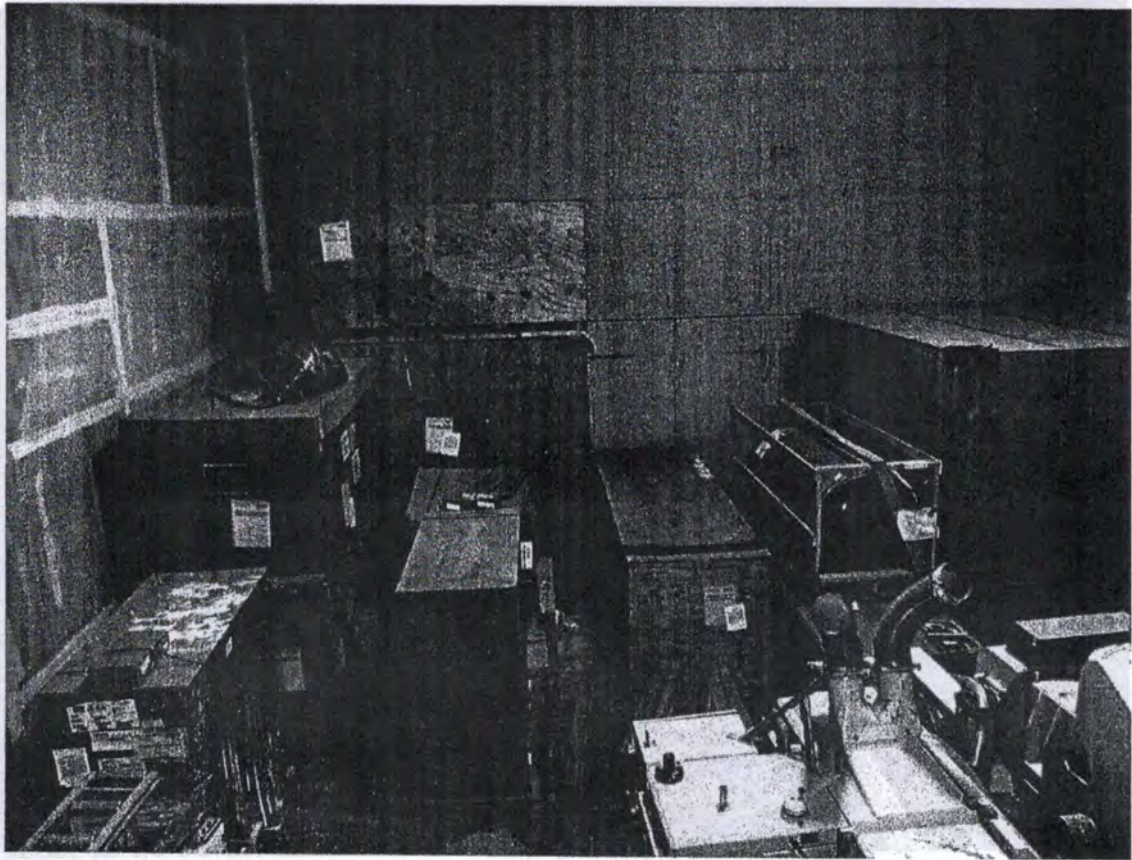


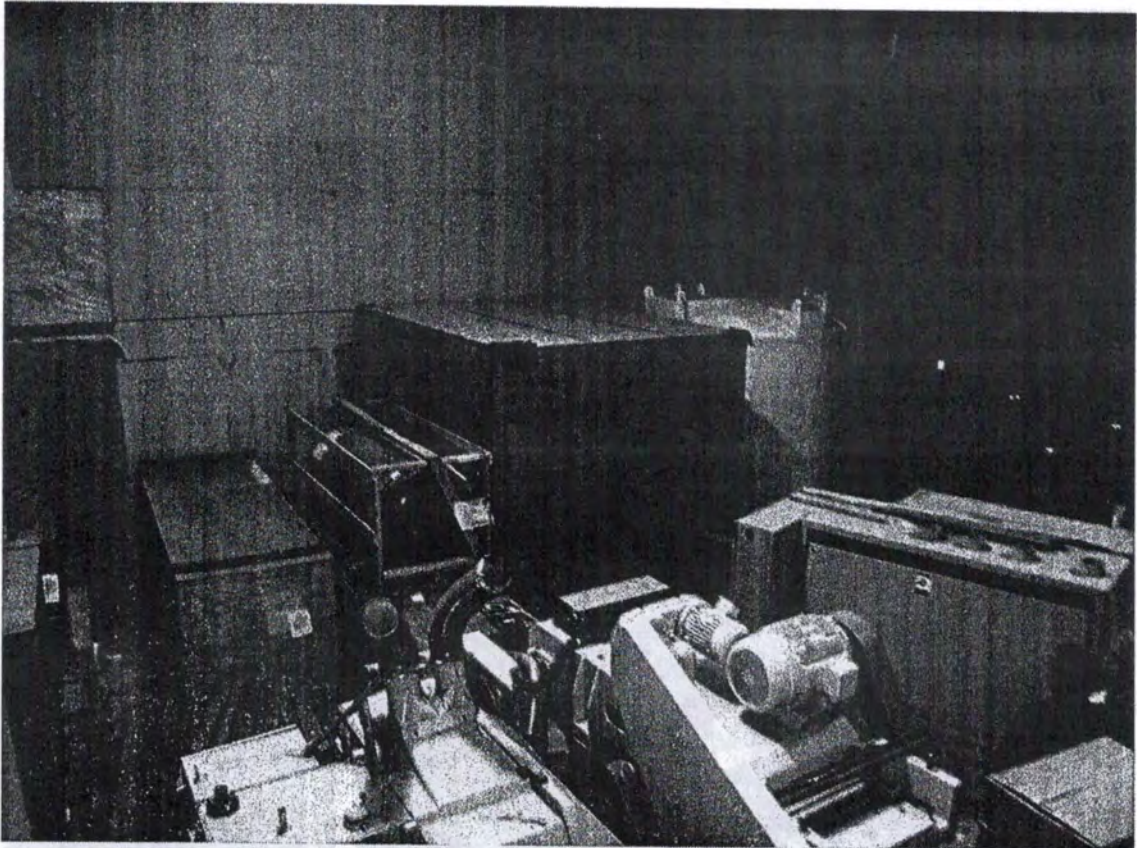




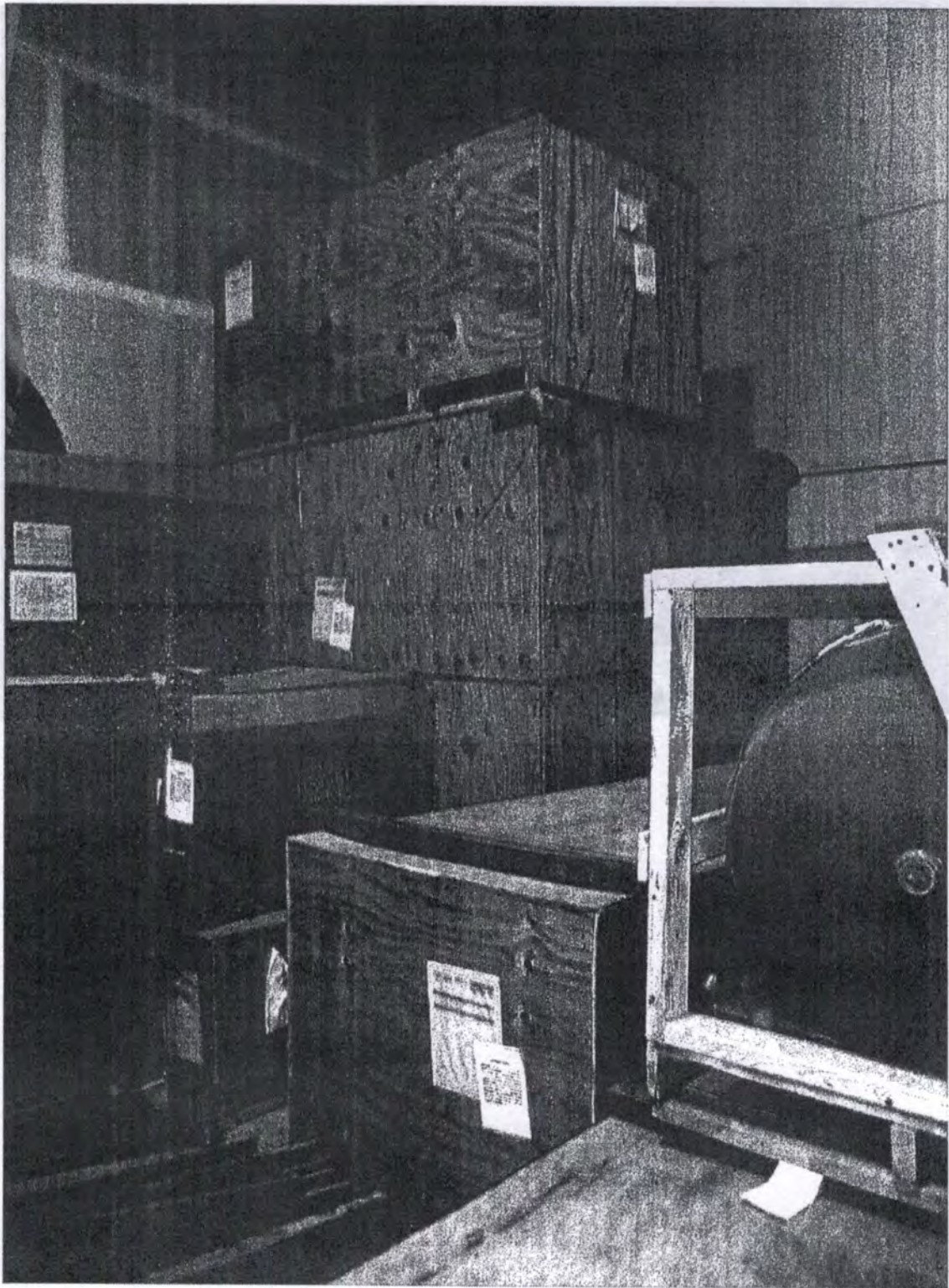




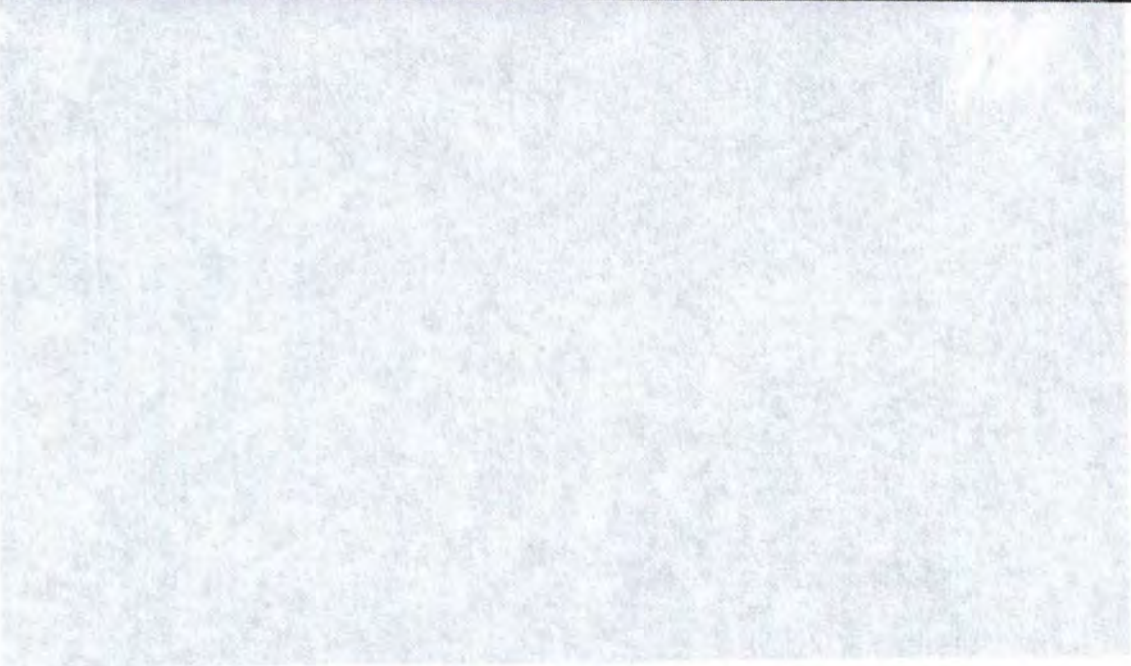
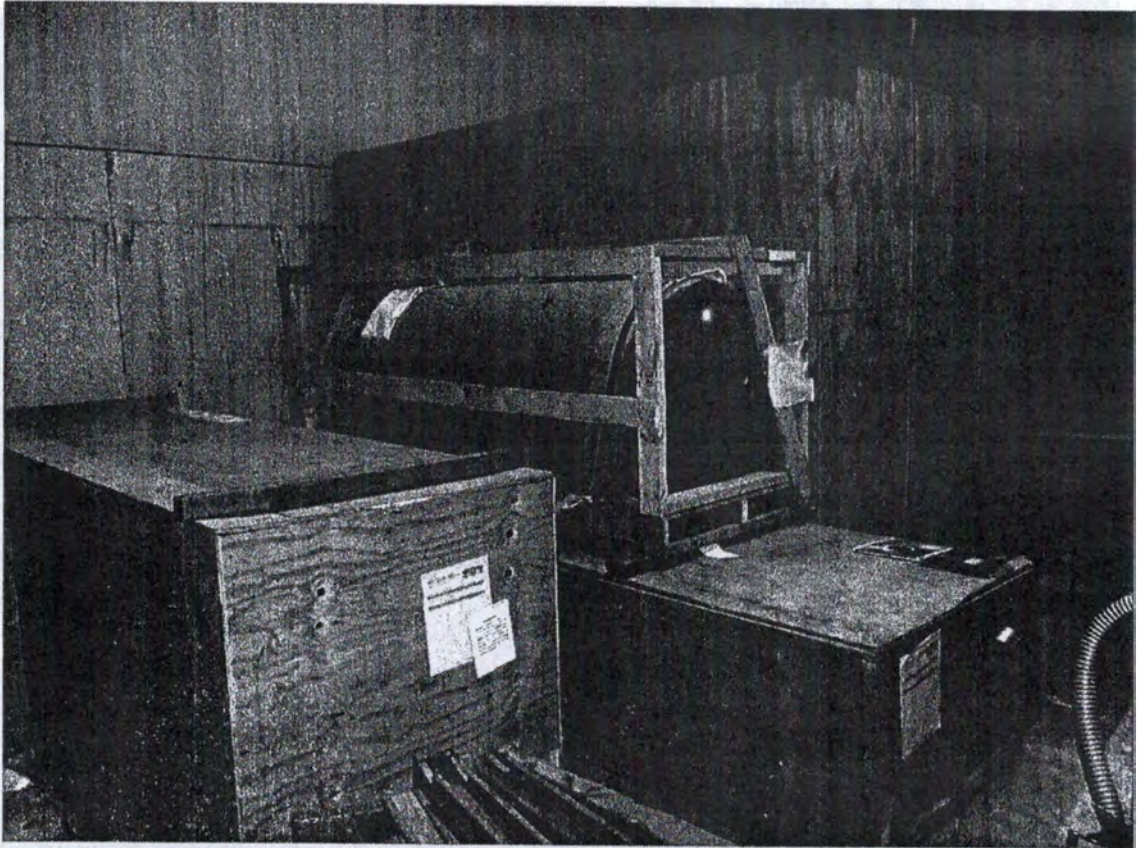






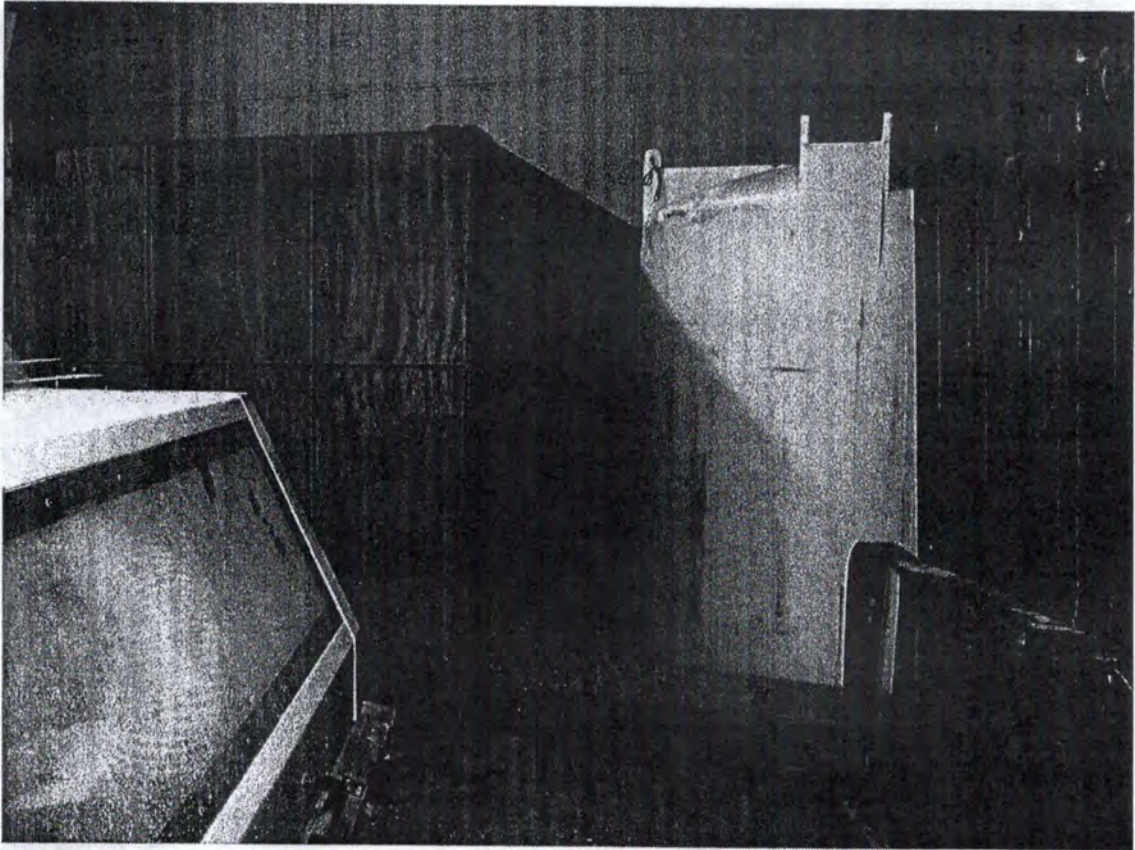




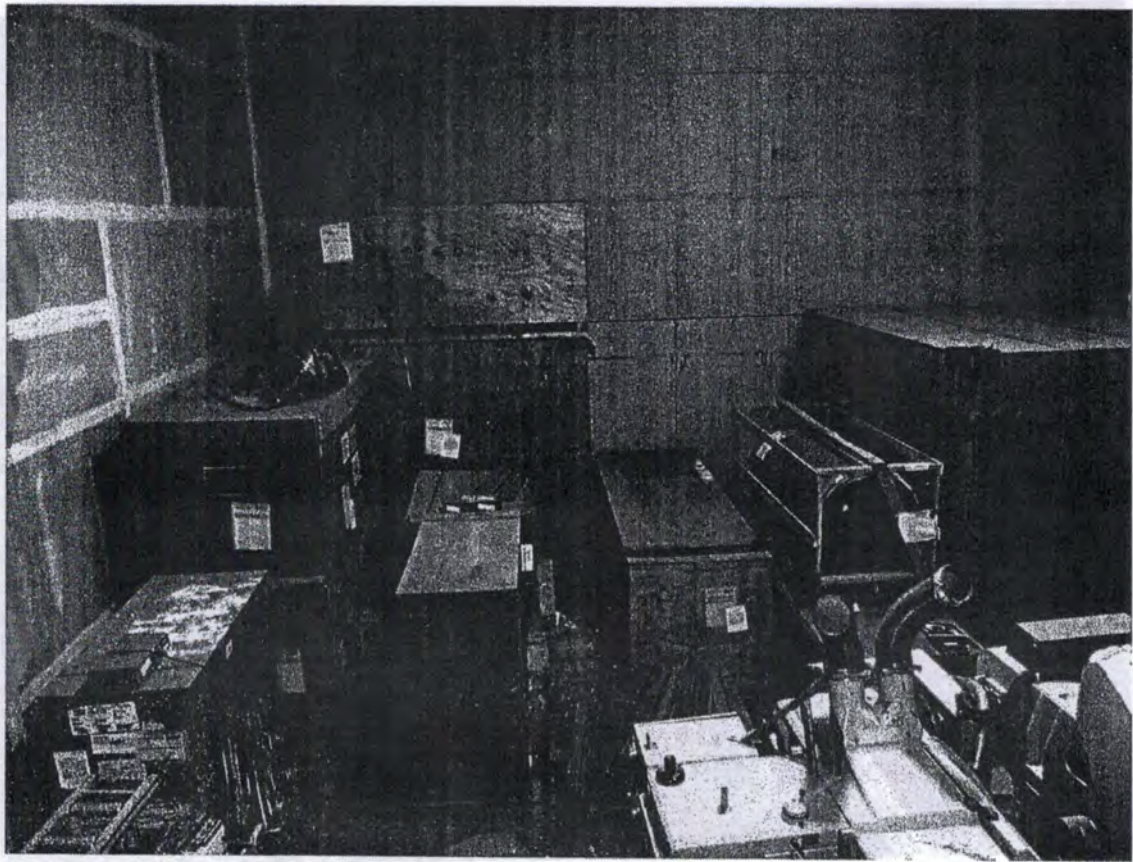


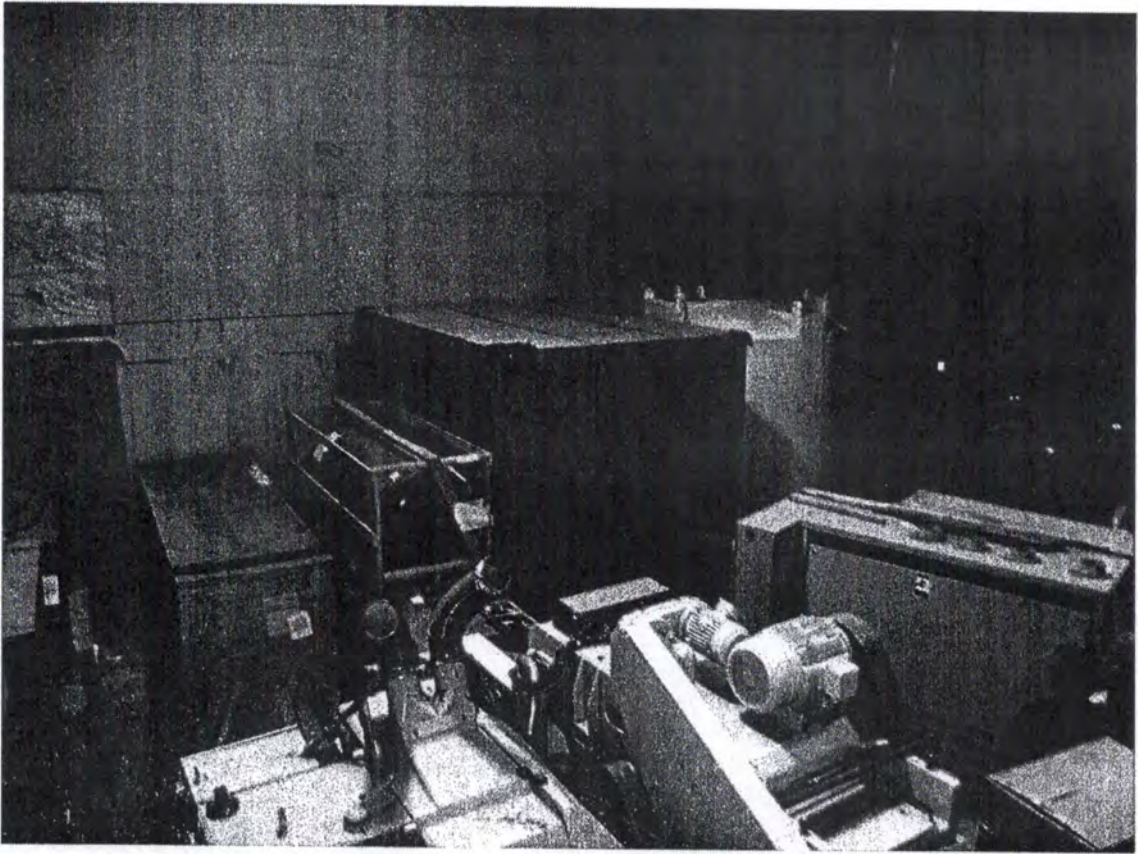




















# MAP OF SURVEY

A PROPERTY LINE ADJUSTMENT, located in the Northeast One-quarter of the Northwest One-quarter, and the Northwest and Southeast One-quarters of the Northwest One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon

**PREPARED FOR:**

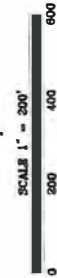
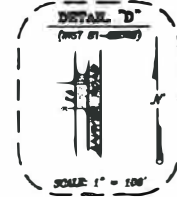
**FREMONTWEST BANK**  
803 Albany Road  
PO Box 40  
Medford, OR 97501

**EASEMENT CURVE TABLE**

LINE	DELTA	RADIUS	ARC	CROSS BEARING	CHORD
EC1	21°51'34"	41.90'	11.48'	N48°10'32"E	11.62'
EC2	54°21'52"	22.50'	28.55'	N82°05'51"E	22.52'

**EASEMENT LINE TABLE**

LINE	BEARING	DISTANCE
E1	N10°39'07"W	3.10'
E2	S22°14'17"W	82.20'
E3	S24°52'07"E	5.85'
E4	S00°01'30"W	30.00'
E5	N82°58'48"W	32.75'
E6	S82°54'45"E	11.50'
E7	N82°58'45"E	81.04'
E8	N82°58'45"E	20.44'
E9	S81°50'17"W	64.88'
E10	N82°07'30"E	4.14'
E11	S81°51'28"W	75.25'
E12	N11°28'05"E	46.06'
E13	N82°07'30"E	126.21'
E14	N82°47'50"E	140.20'



**LEGEND:**

- Indicates a set 3/8 inch diameter iron pin, 30 inches in length, with an orange plastic cap marked "NEATHAMER SURVEYING".
- Indicates a found 3/8 inch diameter iron pin with an orange plastic cap marked "C. NEATHAMER L5 30545", per SN 20712.
- Indicates a found 3/4 inch diameter iron pin per SN 3445, or, as otherwise noted hereon.
- Indicates a found 3/4 inch diameter iron pin per SN 3445.
- ▲ Indicates a found 5/8 inch diameter iron pin per SN 1804.
- Indicates a found 3 inch diameter brass cap marking the east quarter corner of Section 16, per Jackson County Re-establishment Notes, or, as noted hereon.
- Indicates a computed position.
- [ ] Indicates record information per INST 2002-68163, and SN 15940.
- [ ] Indicates record information per SN 3445 and/or SN 6424.
- SN Indicates a Survey as filed in the office of the Jackson County Surveyor.
- INST Instrument recorded by number in the Jackson County Clerk's office.

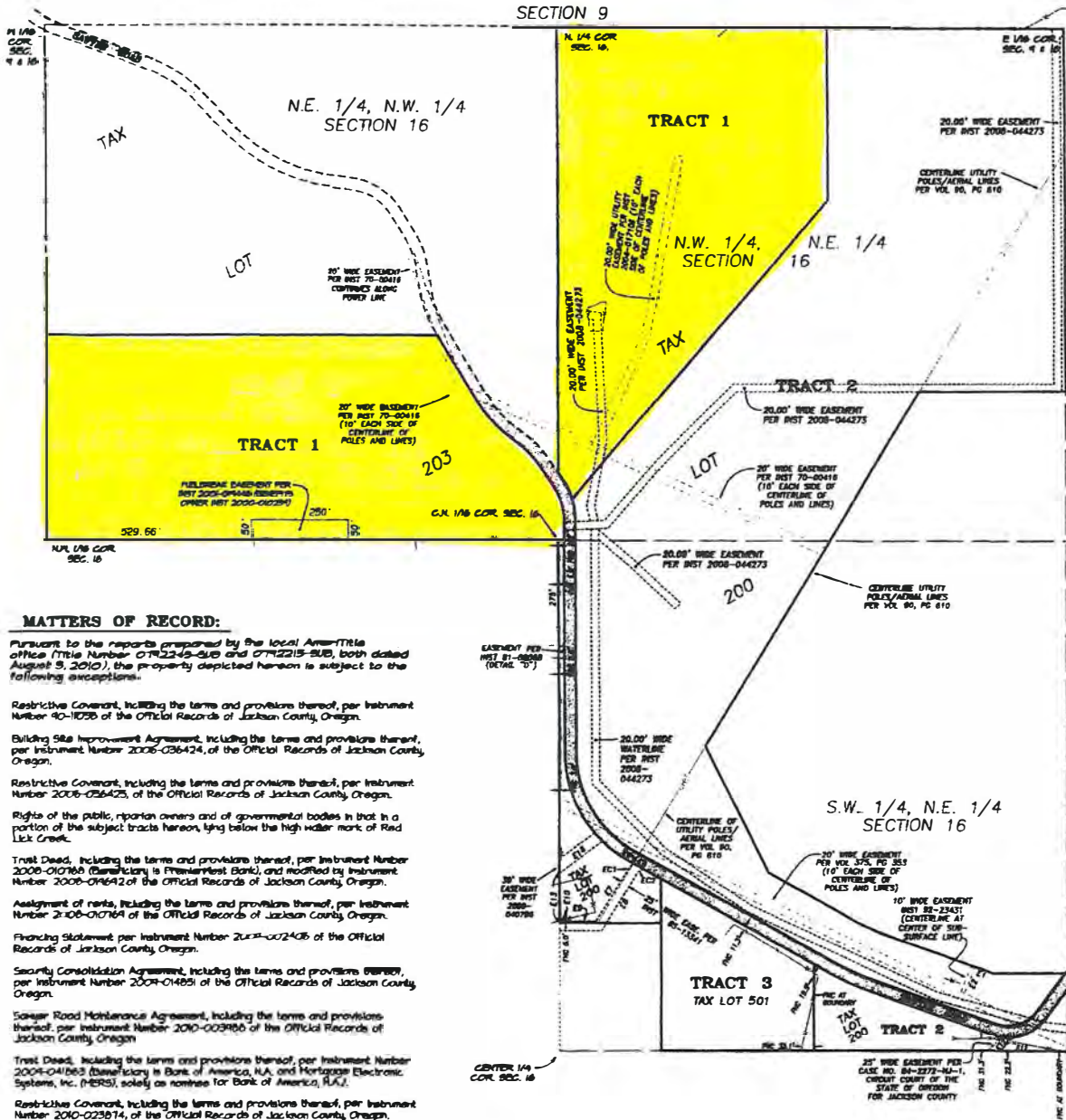
**BASIS OF BEARINGS:**

The meridian line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3445, as filed in the office of the Jackson County Surveyor.

**PREPARED BY:** Neathamer Surveying, Inc.  
3126 State St, Suite 100  
P.O. Box 1584  
Medford, Oregon 97501  
Phone (541) 732-2889  
FAX (541) 732-1382

**PLAT DATE:** September 15, 2010 **PROJECT NUMBER:** 08065-F

Sheet 2 of 2 © 2010



**MATTERS OF RECORD:**

Pursuant to the reports prepared by the local Assessor's Office (Title Number 0712249-808 and 0712215-808, both dated August 5, 2010), the property depicted hereon is subject to the following exceptions:

Restrictive Covenant, including the terms and provisions thereof, per Instrument Number 40-1026 of the Official Records of Jackson County, Oregon.

Building Site Improvement Agreement, including the terms and provisions thereof, per Instrument Number 2006-036424, of the Official Records of Jackson County, Oregon.

Restrictive Covenant, including the terms and provisions thereof, per Instrument Number 2006-036423, of the Official Records of Jackson County, Oregon.

Rights of the public, riparian owners and of governmental bodies in that in a portion of the subject tracts hereon, lying below the high water mark of Red Lick Creek.

Trust Deed, including the terms and provisions thereof, per Instrument Number 2008-010766 (Beneficiary is Fremontwest Bank), and modified by Instrument Number 2008-016614 of the Official Records of Jackson County, Oregon.

Assignment of rents, including the terms and provisions thereof, per Instrument Number 2008-010769 of the Official Records of Jackson County, Oregon.

Financing Statement per Instrument Number 2007-002406 of the Official Records of Jackson County, Oregon.

Security Consolidation Agreement, including the terms and provisions thereof, per Instrument Number 2007-014851 of the Official Records of Jackson County, Oregon.

Seaway Road Maintenance Agreement, including the terms and provisions thereof, per Instrument Number 2010-003966 of the Official Records of Jackson County, Oregon.

Trust Deed, including the terms and provisions thereof, per Instrument Number 2004-041863 (Beneficiary is Bank of America, N.A. and Mortgages Electronic Systems, Inc. (MERS), solely as nominee for Bank of America, N.A.).

Restrictive Covenant, including the terms and provisions thereof, per Instrument Number 2010-023874, of the Official Records of Jackson County, Oregon.



01489722201100210120030032  
I, Christine Walker, County Clerk for Jackson County, Oregon, certify  
that the instrument identified herein was recorded in the Clerk  
records.  
Christine Walker - County Clerk

**After recording return to:**  
Daniel O'Connor  
Huycke, O'Connor & Jarvis, LLP  
823 Alder Creek Drive  
Medford, Oregon 97504

Until a change is requested,  
all tax statements shall be sent  
to the following address:

Shady Cove Waterworks  
P.O. Box 40  
Medford, Oregon 97501

**BARGAIN AND SALE DEED**

**PremierWest Bank**, an Oregon banking institution, as Grantor, does hereby grant, bargain, sell and convey to **Shady Cove Waterworks, LLC**, an Oregon limited liability company, as Grantee, all of that certain real property described as follows:

**SEE EXHIBIT "A", ATTACHED HERETO.**

The true consideration for this conveyance consists of, in its entirety, value given other than monetary consideration, receipt of which is acknowledged and accepted by the undersigned.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

\\



IN WITNESS WHEREOF, and executed this 19<sup>th</sup> day of July, 2011.

PREMIERWEST BANK:

John L. Anhorn  
By: John L. Anhorn  
Its: Chairman

STATE OF OREGON            )  
  ) ss.  
County of Jackson         )

July 19, 2011

Personally appeared the above-named John L. Anhorn, who did say he is the Chairman of PremierWest Bank, an Oregon banking corporation and that said instrument was signed in behalf of said corporation by authority of its board of directors; and acknowledged said instrument to be its voluntary act and deed.

Before me:



Lisa Canon  
Notary Public for Oregon  
My Commission Expires: 4-20-14

904

**EXHIBIT " A "**

**TRACT 1 DESCRIPTION**

All that real property being portions of Instrument Number 2009-027500 of the Official Records of Jackson County, Oregon, being located in the Northeast One-quarter of the Northwest One-quarter and in the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, in Jackson County, Oregon. The exterior boundary of which being more particularly described as follows:

Parcel 1 of a plat recorded July 22, 2010, as Partition Plat No. P-20-2010 of the Records of Partition Plats in Jackson County, Oregon, and filed as Survey Number 20712 in the office of the Jackson County Surveyor. **TOGETHER WITH THE FOLLOWING:** All that real property located in of the Northwest One-quarter of the Northeast One-quarter of Section 16, lying between the westerly right-of-way of Sawyer Road (a public road pursuant to a Court Decree dated August 18, 1980, Case Number 79-1663-E-2 of the Circuit Court of the State of Oregon for the County of Jackson), and the easterly boundary of Parcel 1 of Partition Plat Number P-20-2010 of the Records of Partition Plats in Jackson County, Oregon, and filed as Survey Number 20712 in the office of the Jackson County Surveyor. **ALSO, TOGETHER WITH THE FOLLOWING:** Beginning at the One-quarter corner common to Sections 9 and 16 of said township and range; thence South 89°53'44" East, along the line common to Sections 9 and 16, 703.02 feet; thence South 00°07'50" West, 447.45 feet; thence South 40°48'42" West, 1022.02 feet to a point on the easterly right-of-way of Sawyer Road (a public road pursuant to a Court Decree dated August 18, 1980, Case Number 79-1663-E-2 of the Circuit Court of the State of Oregon for the County of Jackson), being a point on a curve concave to the southwest having a radius of 175.00 feet and a central angle of 17°45'20" (the long chord of which bears North 26°30'10" West, 54.01 feet); thence along the arc of said curve, 54.23 feet; thence North 35°22'50" West, tangent to said curve, and continuing along said right-of-way, 21.70 feet to intersect the west boundary of the Northwest One-quarter of the Northeast One-quarter of Section 16; thence North 00°07'50" East, along the said west boundary, 1156.22 feet to the Point of Beginning.

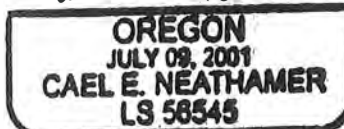
Containing 28.21 acres, more or less.

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor. Measurement along said line is South 00°07'50" West, 2650.51 feet from the North One-quarter corner to the Center One-quarter corner of Section 16.

**PREPARED BY:**  
Neathamer Surveying, Inc.  
3126 State Street, Suite 100  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382  
Project No: 09025-F



*CAEL E. NEATHAMER*



RENEWAL DEC. 31, 2010

Date Prepared: August 3, 2010

A handwritten signature or initials in the bottom right corner of the page.











01445548201000310570070077

I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Christine Walker - County Clerk

**AFTER RECORDING RETURN TO:**

David H. Lohman  
823 Alder Creek Drive  
Medford, OR 97504

**UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO THE FOLLOWING:**

No Change

**RESTATED EASEMENT AGREEMENT**

**THIS RESTATED EASEMENT AGREEMENT** is made between **SCOTT VALLEY BANK**, a California state-chartered bank ("SVB"), as grantor and **SHADY COVE WATERWORKS, LLC**, ("Waterworks"), as grantee.

**RECITALS**

**A.** SVB is the owner of certain real property described in Instrument Number 2009-007524 of the Official Records of Jackson County, Oregon, and more commonly known as Township 34 South, Range 1 West, Section 16DA, Tax Lot 1701 ("Tax Lot 1701" or "the subject property"), a more particular description of this property being attached hereto as **Exhibit "A"**.

**B.** Waterworks owns and intends to operate an irrigation and municipal water system.

**C.** The subject property is encumbered by an Easement Deed dated October 24, 2007 and recorded on March 4, 2008 as document number 2008-007964 in the Official Records of Jackson County, Oregon ("the Original Easement"). The Original Easement provides for a waterline, pump and pumphouse, and affords limited access to these facilities.

**D.** For purposes of affording improved vehicle access for operating maintaining, repairing, and supplementing the aforesaid waterline and the facilities appurtenant to it, the parties desire to establish a slightly expanded easement than that granted in the Original Easement.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**AGREEMENT**

- 1.** The parties agree that the Recitals set forth above are hereby incorporated herein and deemed a material part of this Restated Easement Agreement ("Agreement").
- 2.** SVB grants and conveys to grantee a perpetual variable width easement

*ATTACHMENT I*

("Easement") over and across the subject property for the purpose of ingress/egress, constructing, reconstructing, maintaining, using, operating and repairing grantee's underground waterline and the above-ground facilities appurtenant to it, including the pump and pumphouse, river intake and fish screen. The location and width of the Easement is set forth in **EXHIBIT "B"**, attached hereto. The parties acknowledge and agree that grantee intends to use the easement area occasionally for large-vehicle access for installing, maintaining and repairing the waterline and related facilities. The surface of the ground will not be modified from its current state, without the written consent of the other party, and any disruption to the surface in connection with the repair or replacement of the waterline will be restored to its prior condition by the easement owner.

3. Waterworks shall maintain and repair the subject waterline and appurtenances. Waterworks shall have the right, with reasonable notice and without prior initiation of any suit or proceeding at law or equity, at all times as may be necessary to enter upon Tax Lot 1701 to install, lay, construct, remove, replace, renew, use and operate the subject waterline and all facilities appurtenant to it. Waterworks shall repair any damage to Tax Lot 1701 resulting from its operation, maintenance, replacement or repair of the waterline and any appurtenances thereto. Grantor, at grantor's sole expense, shall be responsible for the repair of any damage caused to grantee's improvements within the Easement resulting from grantor's activities within the easement area.

4. Except for the pumphouse and a possible expansion thereof, no buildings shall be constructed within the Easement or which encroach on the Easement. Grantor shall refrain from causing the Easement to be obstructed in any manner without the prior written consent of grantee.

5. This Agreement supersedes and replaces the Original Easement and the Original Easement shall be of no further force or effect.

6. The Easement granted herein is perpetual and non-exclusive and shall run with the land. This Agreement shall be recorded in the Official Records of Jackson County, Oregon.

7. The parties agree to cooperate and execute any and all documents necessary to effectuate the terms of this Agreement. At the request of any party, the other parties hereto agree to execute such documents, statements and certificates as may be reasonably necessary to confirm or certify the existence and effectiveness of this Agreement.

8. In case of suit, action or proceeding to enforce any rights or conditions of this Agreement or appeal from said suit, action or proceeding, the losing party in such suit, action, proceeding or appeal shall pay the prevailing party therein a reasonable attorney's fee as fixed by the court or arbitrator hearing such suit, action, proceeding or appeal.

9. This Agreement has been entered into in the State of Oregon and the subject property is located in the State of Oregon. The parties agree that the laws of the

21



ATTACHMENT I

State of Oregon shall be used in construing this Agreement and enforcing the rights and remedies of the parties.

10. The Easement granted herein shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. If necessary to allow for the operation, maintenance, replacement and repair of the subject waterline and appurtenances, the parties, or any of them, may assign or grant to public or private utility entities the benefits of this grant of Easement.

11. Each party intends that this Agreement in all respects shall be deemed and construed to be equally and mutually prepared by all parties and it is hereby expressly agreed that any uncertainty or ambiguity shall not be construed for or against any party.

12. This Agreement may be executed by the parties in separate counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have set their hands to this instrument on the date set forth below.

SCOTT VALLEY BANK

9-1-10  
Date

By:   
Its: EDP/CD

SHADY COVE WATERWORKS, LLC

\_\_\_\_\_  
Date

  
By: Rich Hieb, Manager

ATTACHMENT I

STATE OF CALIFORNIA )  
 ) ss.  
County of Siskiyou )

On September 1, 2010 before me, Gaylene A Schweitzer, personally appeared Steven A Studer, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she/he executed the same in her/his authorized capacity, and that by her/his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instruments

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.

Gaylene A Schweitzer  
Signature of Notary Public



STATE OF OREGON )  
 ) ss.  
County of Jackson )

Sept. 7, 2010

Personally appeared Rich Hieb who, being duly sworn, did say that he is a Manager of Shady Cove Waterworks, LLC, an Oregon limited liability company, and that said instrument was signed and sealed in behalf of said company, and he acknowledged said instrument to be its voluntary act and deed.

Before me:



Lisa Canon  
Notary Public for Oregon  
My Commission Expires: 4-20-14

H-



**Exhibit "A"**

That property described in Instrument Number 2009-007524 of the Official Records of Jackson County, Oregon, and more commonly known as Township 34 South, Range 1 West, Section 16DA, Tax Lot 1701.

**Tract A:**

A tract of land located in the Southeast Quarter of Section 16, Township 34 South, Range 1 West, Willamette Meridian, Jackson County, Oregon, and being more particularly described as follows:

Commencing at the Quarter corner common to Sections 15 and 16 in said Township and Range; thence, along the East line of said Section 16, South 00°00'50" East, 189.31 feet (record is South 00°03'50", East, 189.40 feet) to the Southerly line of Rogue River Drive; thence along said Southerly line the following courses and distances; thence South 79°35'30" West, 250.76 feet (record is South 79°34'00" West, 250.95); thence 115.58 feet (record is 115.33 feet) along a curve to the right, having a radius of 630.00 feet, a central angle of 10°30'41: and a long chord which bears South 84°50'50" West, 115.42 feet; thence North 89°53'49" West, 124.54 feet (record is North 89°56'40" West, 124.74 feet) to the northwesterly corner of the tract described in Document No. 71-03238, Official Records, Jackson County, Oregon; thence along the Westerly line of said tract, South 20°22'47" East (record is South 20°25'00" East), 344.77 feet to a 5/8 inch iron pin at the northeasterly corner of the tract described in Document No. 91-17773 of said Official Records, being the Point of Beginning; thence, continuing along the Westerly line of said tract described in Document No. 71-03238, South 20°22'47" East, 206.40 feet to the Northerly bank of the Rogue River; thence along said Northerly bank the following courses and distances; thence South 57°58'00" West, 61.17 feet; thence South 61°55'00" West, 31.62 feet; thence South 57°28'16" West, 63.75 feet to the Northeasterly line of the tract described in Document No. 02-60986 of said Official Records; thence along said Northeasterly line, North 38°55'00" West, 301.33 feet to a 5/8 inch iron pin; thence North 60°02'06" East, 50.34 feet to a 5/8 inch iron pin; thence continuing North 60°02'06" East, 12.00 feet to the center of Red Lick Creek; thence along the center of said creek the following courses and distances; thence South 29°50'10" East, 9.68 feet; thence South 46°02'18" East, 38.27 feet; thence South 23°49'32" East, 43.91 feet; thence, leaving said creek centerline, North 59°59'56" East, 18.32 feet to a 5/8 inch iron pin, thence North 60°02'06" East, 151.14 feet to the Point of Beginning.

**Tract B:**

An easement for ingress and egress including the terms and provisions thereof, as set forth in Document(s) recorded October 21, 1986, as Document Number(s) 86-21093, Deed Records of Jackson County.

For informational purposes only, the following is included:  
(Map No. 341W16DA, Tax Lot 1701, Account No. 1-062283-1, Code 9-15)

**EXHIBIT "B"**

A variable width easement located within a portion of that real property described in Instrument Number 2009-007524 of the Official Records of Jackson County, Oregon, being located within a portion of the Southeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon. The sidelines of said easement are more particularly described as follows:

Commencing at the One-quarter common to Sections 15 and 16 of said township, range and meridian; thence South 44°15'48" West, 806.43 feet to a point at the centerline of Red Lick Creek, being the north-northeast corner of tract per said Instrument Number 2009-007524; thence South 60°02'39" West, along the north line of said tract, 9.35 feet to the **True Point of Beginning**; thence South 28°04'11" East, 6.35 feet; thence South 30°14'58" East, 67.17 feet; thence South 47°32'15" East, 232.53 feet to the south line of said tract; thence along the south line of said tract the following courses and distances: South 61°54'28" West, 12.70 feet; thence South 57°27'44" West, a distance of 8.31 feet; thence North 47°32'15" West, leaving said tract line, 6.21 feet; thence South 57°27'44" West, 20.71 feet; thence North 47°32'15" West, 62.53 feet to the south line of a 12-foot wide sanitary sewer easement per Instrument Number 80-06966 of the Official Records of Jackson County, Oregon; thence North 50°53'34" East, along said easement, 20.22 feet; thence North 47°32'15" West, leaving said easement, 106.85 feet; thence South 42°12'04" West, 15.00 feet; thence North 47°32'15" West, 61.94 feet; thence North 42°56'42" East, 18.27 feet; thence North 30°14'58" West, 59.59 feet; thence North 28°04'11" West, 6.07 feet to a point on the north line of aforesaid tract; thence North 60°02'39" East, along said north line, 20.01 feet to the Point of Beginning

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor.

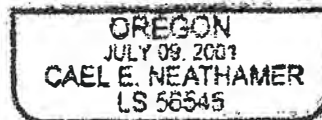
**Prepared by:**

Neathamer Surveying, Inc.  
3126 State Street, Suite 100  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382  
Project No: 09025-H

Date Prepared: August 2, 2010



*Cael E. Neathamer*



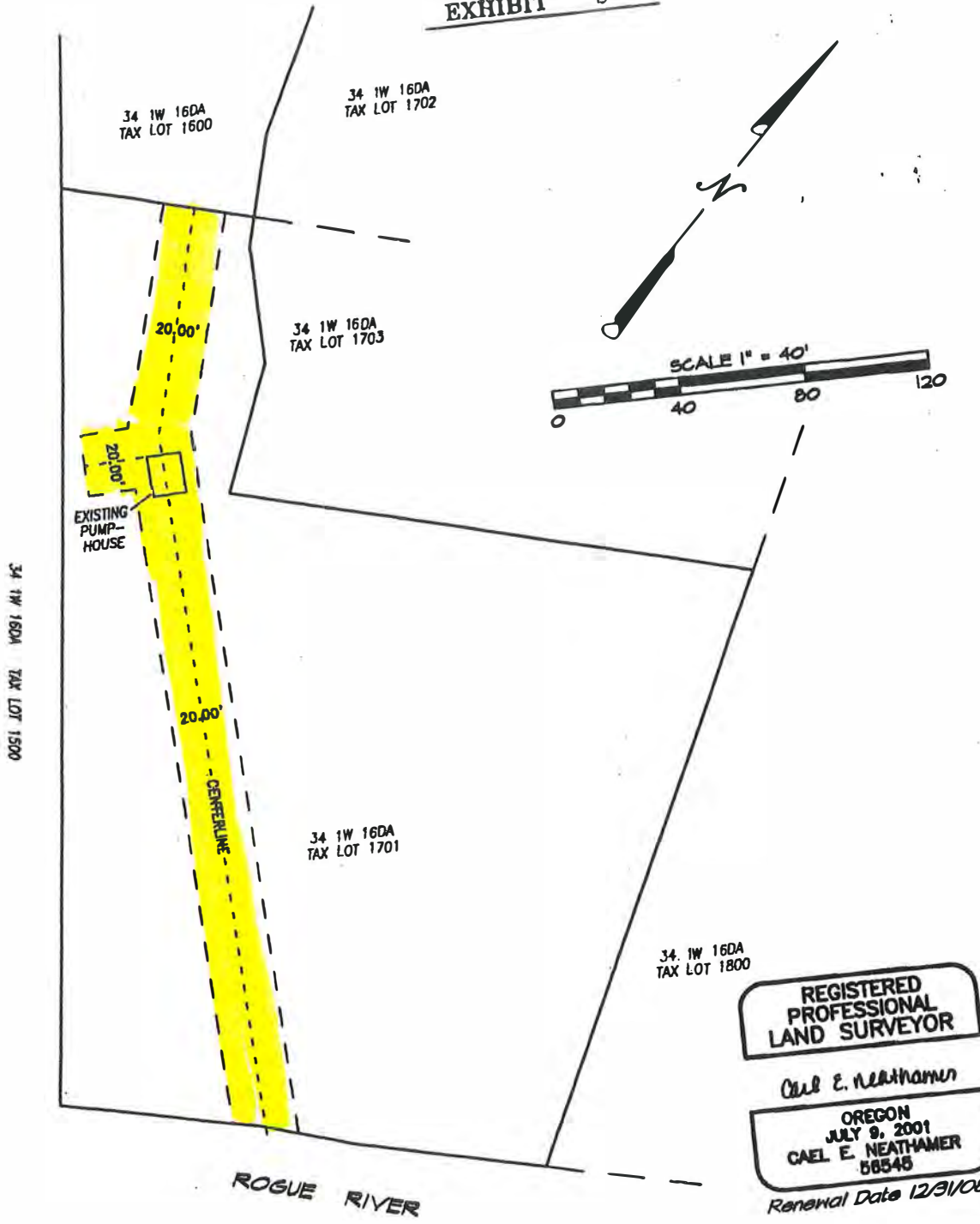
RENEWAL DEC. 31, 2010

6





EXHIBIT " B "



3'





**EXHIBIT "A"**

A 10.00 foot wide Utility Easement located within a portion of that real property described in Instrument Number 2005-052771 of the Official Records of Jackson County, Oregon, being located within a portion of the Southeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon. The sidelines of said easement are more particularly described as follows:

Commencing at the One-quarter common to Sections 15 and 16 of said township, range and meridian; thence South 44°15'48" West, 806.43 feet to a point at the centerline of Red Lick Creek, being the north-northeast corner of tract per said Instrument Number 2005-052771; thence South 60°02'39" West, along the north line of said tract, 19.36 feet to the **True Point of Beginning**; thence South 28°04'11" East, leaving said north tract line, 6.21 feet; thence South 30°14'58" East, 68.32 feet; thence South 47°03'18" East, 6.43 feet; thence South 42°56'42" West, 25.00 feet; thence North 42°56'42" East, 25.00 feet; thence South 47°03'18" East, 13.28 feet; thence South 47°32'15" East, 214.69 feet to the northerly bank of the rogue River, being a point on the southerly boundary of that tract of aforesaid Instrument Number 2005-052771, and being the terminus of this easement.

The sidelines of this easement described herein are to meet at angle points, commence at a point on the northerly line of that tract per said Instrument Number 2005-052771, be 10.00 feet each side of the herein and above described centerline, and terminate at northerly bank of the Rogue River, also being a point on the southerly boundary of that tract of aforesaid Instrument Number 2005-052771.

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor.

Prepared by:  
Neathamer Surveying, Inc.  
3132 State Street, Suite 110  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382

Date Prepared: September 19, 2007



*Cael E. Neathamer*

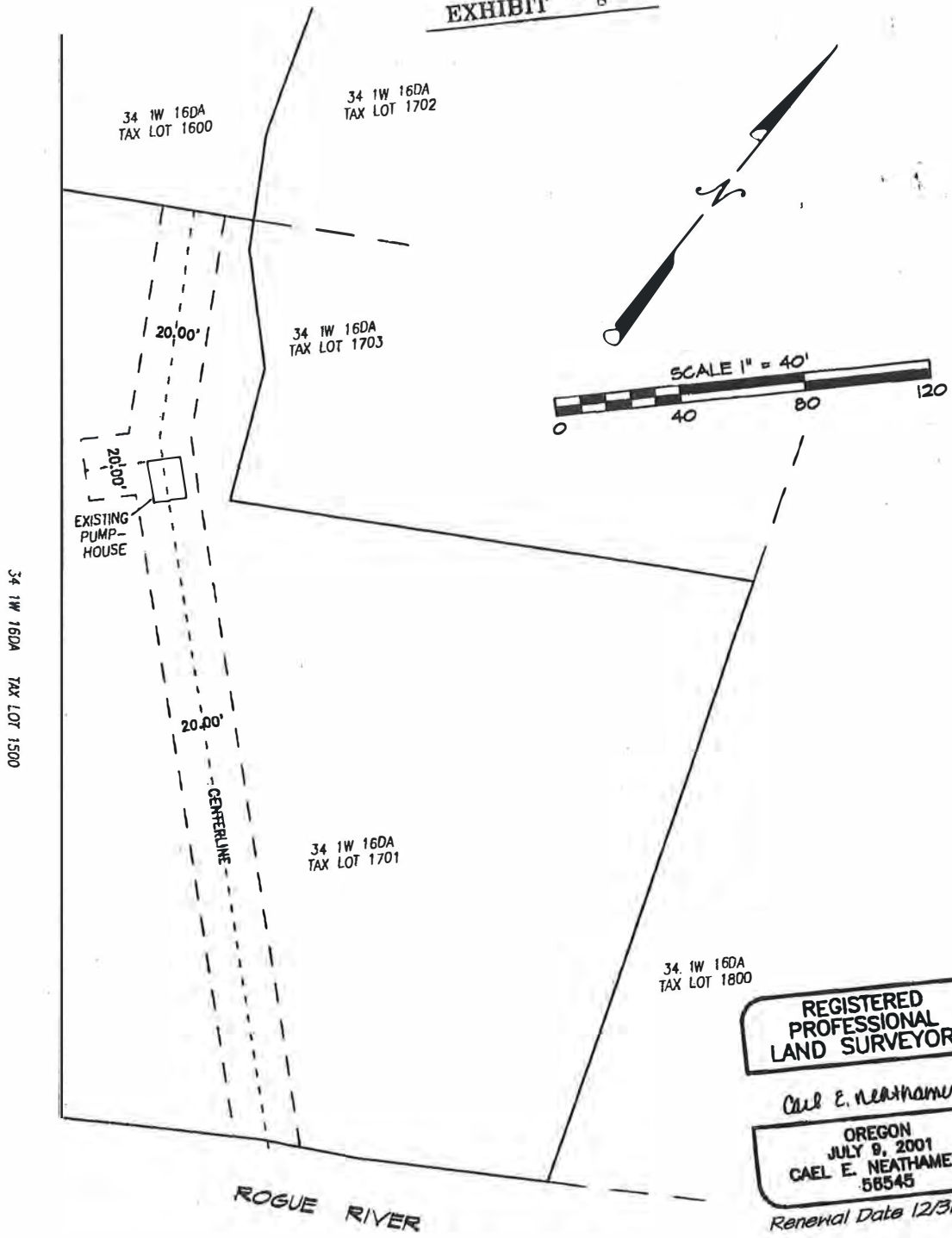


RENEWAL DEC. 31, 2008

2'



EXHIBIT " B "



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Cael E. Neathamer*

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
58545

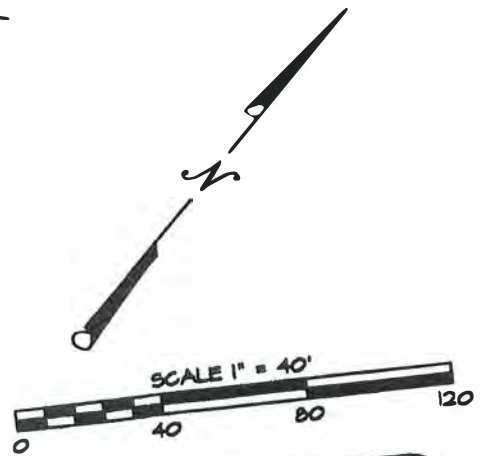
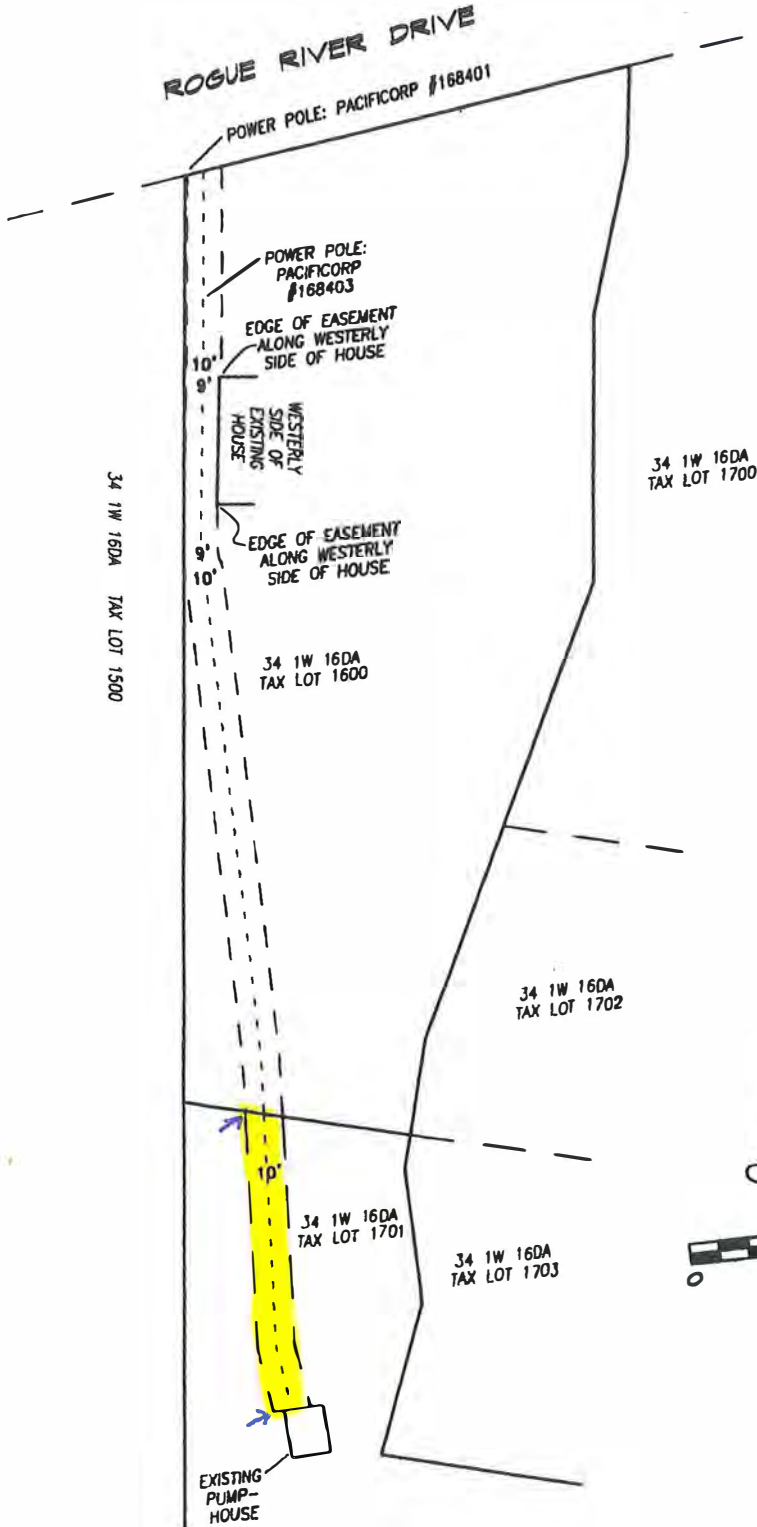
Renewal Date 12/31/08





EXHIBIT " B "

TL 1701



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

CAEL E. NEATHAMER

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
58545

Renewal Date 12/31/08



I, Kathleen S. Beckett, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Kathleen S. Beckett - County Clerk

**After recording, return to:**

Debbie Vincent  
Attorney at Law  
10 Crater Lake Avenue  
Medford, OR 97504

**Mail tax statements to:**

No Change

**EASEMENT DEED**

Grantor: **R.J. BOEHM and CHARLOTTE E. BOEHM, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE BOEHM FAMILY 1992 TRUST, DATED JUNE 15, 1992, AS RESTATED ON JUNE 28, 2002, AND ANY AMENDMENTS THERETO**

TL 1701

Grantee: **Shady Cove Waterworks, LLC, 10 Crater Lake Avenue, Medford, OR 97504**

Consideration: **Mutual Benefit**

R.J. BOEHM and CHARLOTTE E. BOEHM, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE BOEHM FAMILY 1992 TRUST, DATED JUNE 15, 1992, AS RESTATED ON JUNE 28, 2002, AND ANY AMENDMENTS THERETO, Grantor, hereby grants and conveys unto SHADY COVE WATERWORKS, LLC, an Oregon Limited Liability Company, Grantee, a utility easement over, under, and across the real property of grantors, described as:

**See Attached Exhibit "A"  
and depicted on the map Attached Exhibit "B"**

Said easement herein conveyed is for the purpose of constructing, reconstructing, maintaining, using, operating, and repairing power line facilities of the Shady Cove Waterworks, LLC water system of grantee together with the right to make such excavation therein as grantee may require and deem convenient for the installation, repair or maintenance of such facilities; including such reasonable right of ingress and egress to and from such easement as may be necessary to carry out its purposes. No other facility shall be placed within three feet of the power lines.

Grantor reserves the right to use and possess such land within the easement as shall not interfere with Grantee's use thereof for the purposes above set forth, but grantor shall not cause any buildings or permanent structures to be constructed over any part of the easement without grantee's consent.

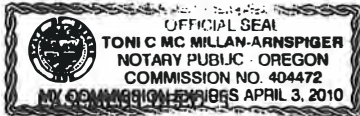
Maintenance of the utility shall be the responsibility of Shady Cove Waterworks, LLC.

Dated 10-24, 2007

R. J. Boehm Trustee Charlotte E. Boehm Trustee  
R. J. Boehm, Trustee Charlotte E. Boehm, Trustee

STATE OF OREGON )  
) ss.  
County of Jackson )

The foregoing instrument was acknowledged before me this 24 day of oct, 2007, by RJ Boehm trustee, and Charlotte E Boehm trustee



Notary Public for Oregon  
My commission expires April 3 2010

EXHIBIT "A"

TL 1701

A 10.00 foot wide Utility Easement located within a portion of that real property described in Instrument Number **2005-052771** of the Official Records of Jackson County, Oregon, being located within a portion of the Southeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon. The sidelines of said easement are more particularly described as follows:

Commencing at the One-quarter common to Sections 15 and 16 of said township, range and meridian; thence South 44°15'48" West, 806.43 feet to a point at the centerline of Red Lick Creek, being the north-northeast corner of tract per said Instrument Number 2005-052771; thence South 60°02'39" West, along the north line of said tract, 40.44 feet to the **True Point of Beginning**; thence South 41°50'43" East, leaving said north tract line, 65.78 feet; thence South 51°50'59" East, 18.46 feet to the northerly side of an existing concrete structure, and the terminus of this easement.

The sidelines of this easement described herein are to meet at angle points, commence at a point on the northerly line of that tract per said Instrument Number 2005-052771, be 5.00 feet each side of the herein and above described centerline, and terminate at northerly side of an existing concrete structure (pump house).

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor.

Prepared by:  
Neathamer Surveying, Inc.  
3132 State Street, Suite 110  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382

Date Prepared: September 19, 2007



*Caie E. Neathamer*

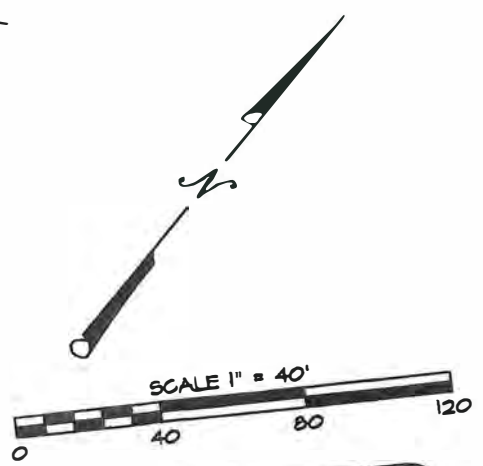
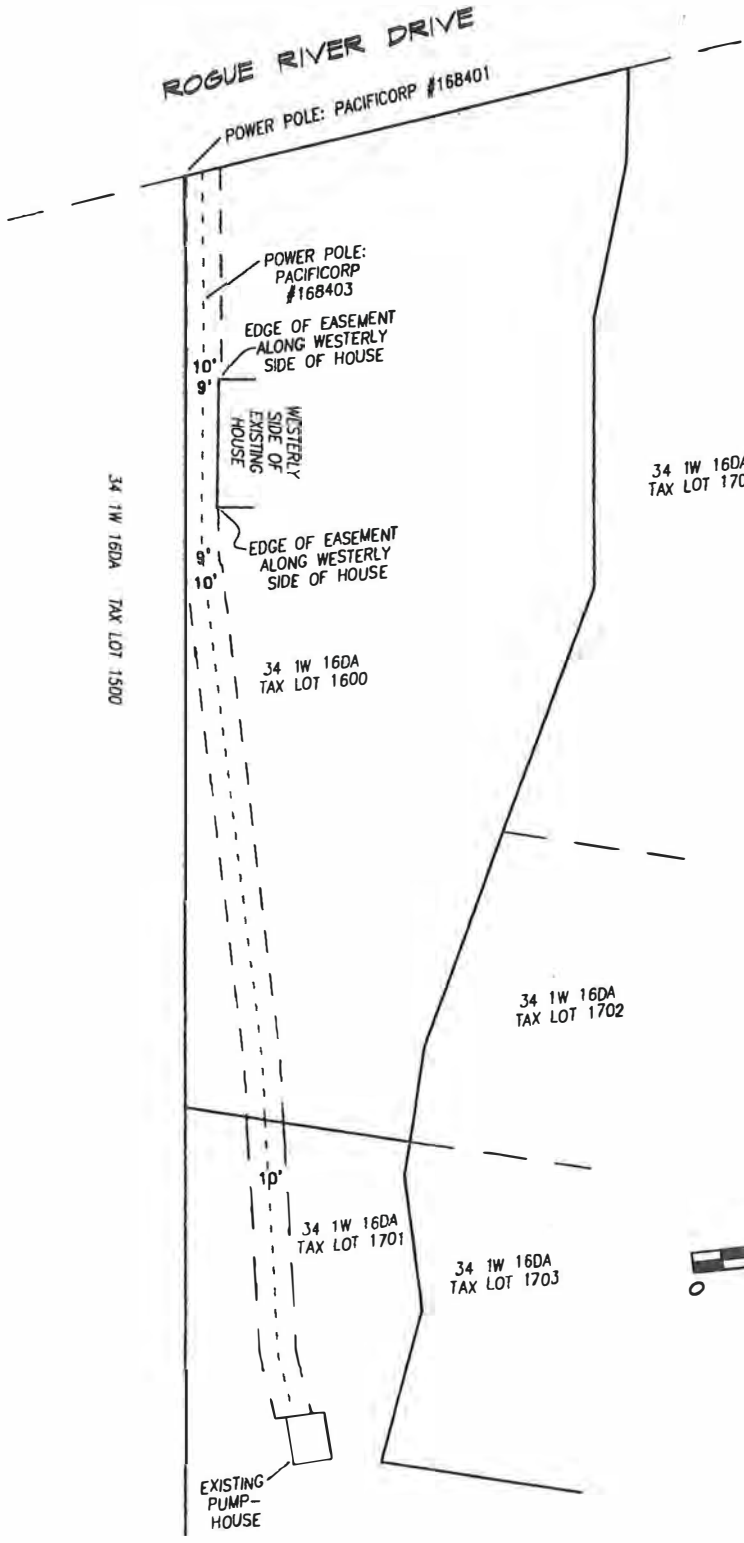


RENEWAL: DEC. 31, 2008



EXHIBIT " R "

TL 1701



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*cael e. neathamer*

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
58545

Renewal Date 12/31/08

Jackson County Official Records 2005-052771  
R-LLA  
Cnt=1 Sin=10 ALONZOKW 08/30/2005 11:28:09 AM  
\$10.00 \$5.00 \$11.00 Total:\$28.00



I, Kathleen S. Beckett, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Kathleen S. Beckett - County Clerk

**Grantor's Name and Address:**  
R. J. Boehm and Charlotte E. Boehm, Trustees  
P.O. Box 14965  
Oakland, California 94614  
**Grantee's Name and Address:**  
R.J. Boehm and Charlotte E. Boehm, Trustees  
P.O. Box 14965  
Oakland, California 94614  
**After Recording Return to:**  
Debbie V. Minder, Attorney at Law  
10 Crater Lake Avenue  
Medford, Oregon 97504  
**Until a change is requested all tax statements shall be sent to the following address:**  
No Change

### Statutory Bargain and Sale Deed PROPERTY LINE ADJUSTMENT


R.J. BOEHM and CHARLOTTE E. BOEHM, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE BOEHM FAMILY 1992 TRUST, DATED JUNE 15, 1992, AS RESTATED ON JUNE 28, 2002, AND ANY AMENDMENTS THERETO, (Grantor), does hereby grant, bargain, sell and convey to R.J. BOEHM and CHARLOTTE E. BOEHM, TRUSTEES, OR THEIR SUCCESSORS IN TRUST, UNDER THE BOEHM FAMILY 1992 TRUST, DATED JUNE 15, 1992, AS RESTATED ON JUNE 28, 2002, AND ANY AMENDMENTS THERETO, Grantee, the following described real property.

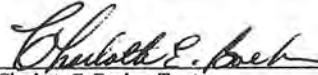
SEE EXHIBIT "A" ATTACHED HERETO AND FORMING A PART HEREOF

The true consideration for this conveyance stated in terms of dollars is \$ 0 .

DATED this 29 day of August, 2005.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 90.030.

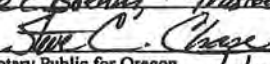
  
R. J. Boehm, Trustee

  
Charlotte E. Boehm, Trustee

STATE OF OREGON, County of JACKSON ) ss.

This instrument was acknowledged before me on August 29 2005

By R.J. Boehm & Charlotte E. Boehm, Trustees

  
Notary Public for Oregon

My commission Expires: 8/1/09

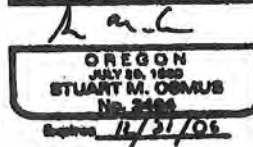


EXHIBIT 'A'  
ADJUSTED TAX LOT 1701

A tract of land located in the Southeast Quarter of Section 16, Township 34 South, Range 1 West, Willamette Meridian, Jackson County, Oregon and being more particularly described as follows:

Commencing at the Quarter Corner common to Sections 15 and 16 in said Township and Range; thence, along the east line of said Section 16, South 00° 00' 50" East, 189.31 feet (record is South 00° 03' 50" East, 189.40 feet) to the southerly line of Rogue River Drive; thence along said southerly line the following courses and distances; thence South 79° 35' 30" West, 250.76 feet (record is South 79° 34' 00" West, 250.95 feet); thence 115.58 feet (record is 115.33 feet) along a curve to the right, having a radius of 630.00 feet, a central angle of 10° 30' 41" and a long chord which bears South 84° 50' 50" West, 115.42 feet; thence North 89° 53' 49" West, 124.54 feet (record is North 89° 56' 40" West, 124.74 feet) to the northwesterly corner of the tract described in Document No. 71-03238, Official Records, Jackson County, Oregon; thence along the westerly line of said tract, South 20° 22' 47" East (record is South 20° 25' 00" East), 344.77 feet to a 5/8" iron pin at the northeasterly corner of the tract described in Document No. 91-17773 of said Official Records, being the Point of Beginning; thence, continuing along the westerly line of said tract described in Document No. 71-03238, South 20° 22' 47" East, 206.40 feet to the northerly bank of the Rogue River; thence along said northerly bank the following courses and distances; thence South 57° 58' 00" West, 61.17 feet; thence South 61° 55' 00" West, 31.62 feet; thence South 57° 28' 16" West, 63.75 feet to the northeasterly line of the tract described in Document No. 02-60986 of said Official Records; thence along said northeasterly line, North 38° 55' 00" West, 301.33 feet to a 5/8" iron pin; thence North 60° 02' 06" East, 50.34 feet to a 5/8" iron pin; thence continuing North 60° 02' 06" East, 12.00 feet to the center of Red Lick Creek; thence along the center of said creek the following courses and distances; thence South 29° 50' 10" East, 9.68 feet; thence South 46° 02' 18" East, 38.27 feet; thence South 23° 49' 32" East, 43.91 feet; thence, leaving said creek centerline, North 59° 59' 56" East, 18.32 feet to a 5/8" iron pin; thence North 60° 02' 06" East, 151.14 feet to the Point of Beginning.

June 28, 2005



2





































FOR ASSESSMENT AND TAXATION ONLY

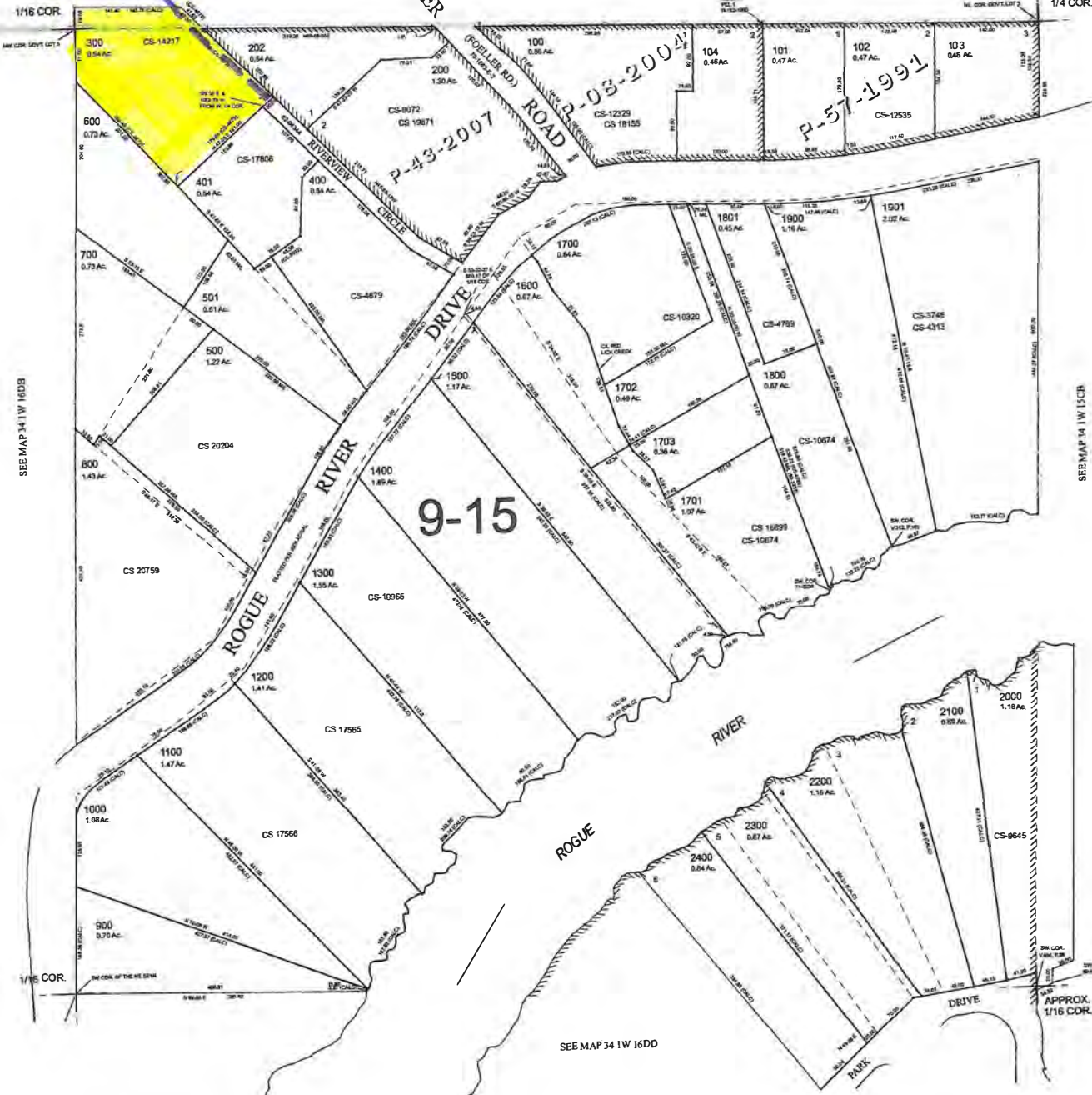
N.E.1/4, S.E.1/4, SEC.16, T.34S., R.1W., W.M.  
JACKSON COUNTY  
1" = 100'

34 1W 16DA  
SHADY COVE

9-6

SAWYER

SEEMAP 34 1W 16



CANCELLED TAX  
LOT NUMBERS:  
201 REMAPPED TO 0341W16

9-15

SEE MAP 34 1W 16DD

34 1W 16DA  
SHADY COVE  
NEW MAP MAY 11, 2009  
REV OCTOBER 13, 2010

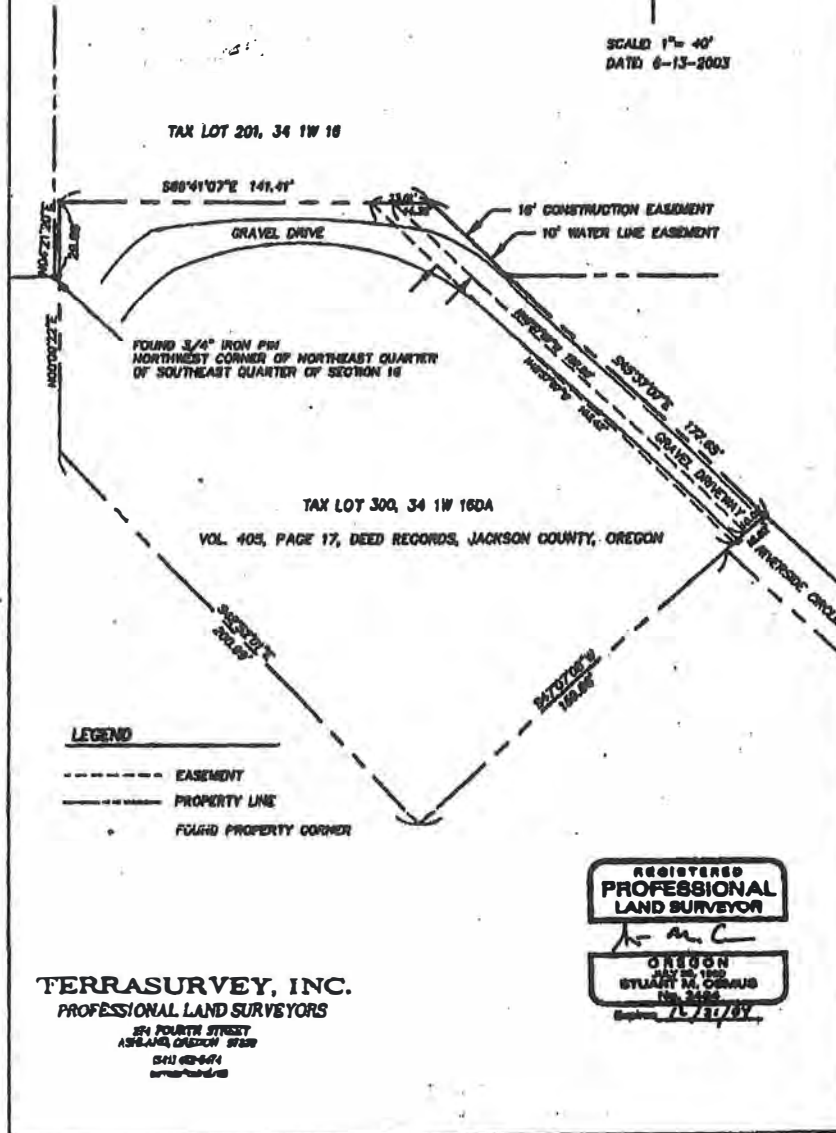
**MAP OF EASEMENT**  
**WILLIAM R. GORDON PROPERTY**  
**133 RIVERVIEW CIRCLE**  
**SHADY COVE, OREGON 97839**

T.34 S. R. 1 W. SEC 18 N.W.

EXHIBIT "C"



SCALE 1" = 40'  
 DATED 6-13-2003



4





01353190200800445350040048

I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Christine Walker - County Clerk

Recording Requested by And  
When Recorded Mail to:

Debbie Vincent, Attorney at Law  
P.O. Box 4606  
Medford, Oregon 97501

#### EASEMENT FOR WATER LINES

The undersigned, WILLIAM R. GORDON AND DEANNA L. GORDON, ("Grantor"), for and in consideration of good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, hereby grants and conveys to SHADY COVE WATERWORKS, LLC, an Oregon Limited Liability Company ("Grantee"), and its agents, successors and assigns, a permanent Right-of-Way and easement for water lines and appurtenances thereto ("Easement") as follows:

1. Nature and Location of Easement. See Exhibit "A" attached hereto and incorporated herein by this reference for a description of a 10-foot wide permanent water line easement for the benefit of Grantee over, upon, across, through and under a portion of Grantor's Real Property for the purposes of installing, laying, constructing, maintaining, inspecting, repairing, removing, replacing, renewing, using and operating water lines, together with all facilities, connectors and appurtenances ("Water Lines"), including the right of ingress and egress for such purposes, as depicted in Exhibit "C" attached hereto and incorporated herein by this reference.
2. Right of Entry. Grantee shall have the right, with reasonable notice and without prior institution of any suit or proceeding at law or equity, at all times as may be necessary to enter upon the Real Property to install, lay, construct, maintain, inspect, repair, remove, replace, renew, use and operate the Water Lines for the purposes of serving other properties with utility service. Grantee agrees to restore the Real Property as nearly as reasonably possible to its condition prior to any material disturbance from construction, operation, maintenance, repair, or replacement of the Water Lines.
3. Encroachment/Construction Activity. Grantor shall not undertake, authorize, permit or consent to any construction or excavation including, without limitation, digging, tunneling, or other forms of construction activity on or near the Easement which might in any fashion unearth, undermine, or damage the Water Lines or endanger the lateral or other support of the Water Lines. Grantor further agrees that no structure or obstruction including, without limitation, fences, rockeries shall be erected over, upon or within the Easement, and no trees, bushes, or other shrubbery shall be planted or maintained within the Easement, provided Grantor shall have full use of the surface of the Real Property within the Easement.
4. Binding Effect/Warranty of Title. The Easement and the covenants, terms and conditions contained herein are intended to and shall run with the Real Property and shall be binding upon Grantee and Grantor and their respective successors, heirs, and assigns. Grantor warrants that Grantor has good title to the Real Property and warrants the Grantee title to and quiet enjoyment

of the Easement.

- 5. Recording. Upon its execution, the Easement shall be recorded in the Official Records of the Jackson County Clerk, Jackson County, Oregon.
- 6. Indemnification. For purposes of this easement, Grantee shall defend, save, hold harmless and indemnify Grantor against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever arising from, arising out of, or relating to activities of the indemnifying party or its employees, subcontractors, invitees or agents in connection with the water lines and operation of the water lines.
- 7. Entire Agreement: The provisions contained in this Easement represent the entire and integrated agreement between Grantor and Grantee and supersedes all prior negotiations, representations or agreements, either written or oral.

EXECUTED this 12 day of December, 2008.

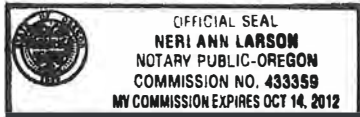
GRANTORS:

William R. Gordon  
William R. Gordon

Deanna L. Gordon  
Deanna L. Gordon

STATE OF OREGON; COUNTY OF JACKSON

This instrument was acknowledged before me on December 12, 2008, By William R. Gordon, and Deanna L. Gordon



Neri Ann Larson  
Notary Public for Oregon  
My commission Expires: Oct - 14, 2012

2

EXHIBIT 'A'

WATER LINE EASEMENT

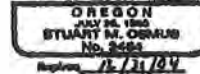
A strip of land, being 10 feet in width and lying over and across the east half of Section 16, Township 34 South, Range 1 West, Willamette Meridian, Jackson County, Oregon; being more particularly described as follows:

Commencing at the northwest corner of the parcel described in Volume 405, Page 17, Deed Records, Jackson County, Oregon, from which the northwest corner of the Northeast Quarter of the Southeast Quarter of said Section 16 bears South 04° 21' 20" West, 29.89 feet (record is South, 29.00 feet); thence along the north line of said parcel, South 89° 41' 07" East, 141.41 feet (record is South 89° 43' East, 141.4 feet) to the most northeasterly corner of said parcel, being the Point of Beginning; thence along the northeasterly line of said parcel, South 45° 37' 07" East, 177.65 feet (record is South 45° 39' West, 200.00 feet) to the most easterly corner of said parcel; thence along the southeasterly line of said parcel, South 47° 07' 08" West (record is South 47° 05' West), 10.01 feet; thence North 45° 37' 07" West, 187.50 feet to the north line of said parcel; thence along said north line, South 89° 41' 07" East, 14.38 feet to the Point of Beginning.

June 13, 2003



*Stuart M. Orenus*



*Expire 12/31/04*

3



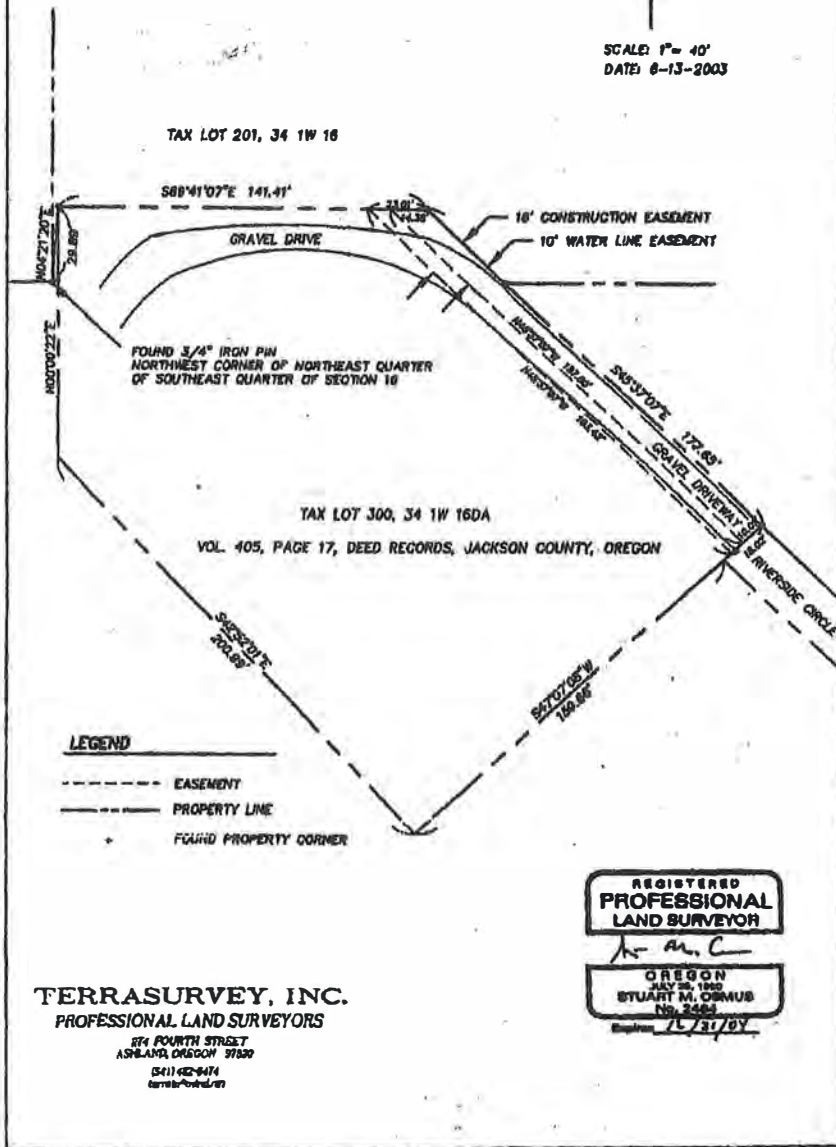
**MAP OF EASEMENT**  
**WILLIAM R. GORDON PROPERTY**  
**133 RIVERVIEW CIRCLE**  
**SHADY COVE, OREGON 97539**

T 34 S, R 1 W, SEC 16 N.W.

EXHIBIT "C"



SCALE: 1" = 40'  
 DATE: 8-13-2003



4























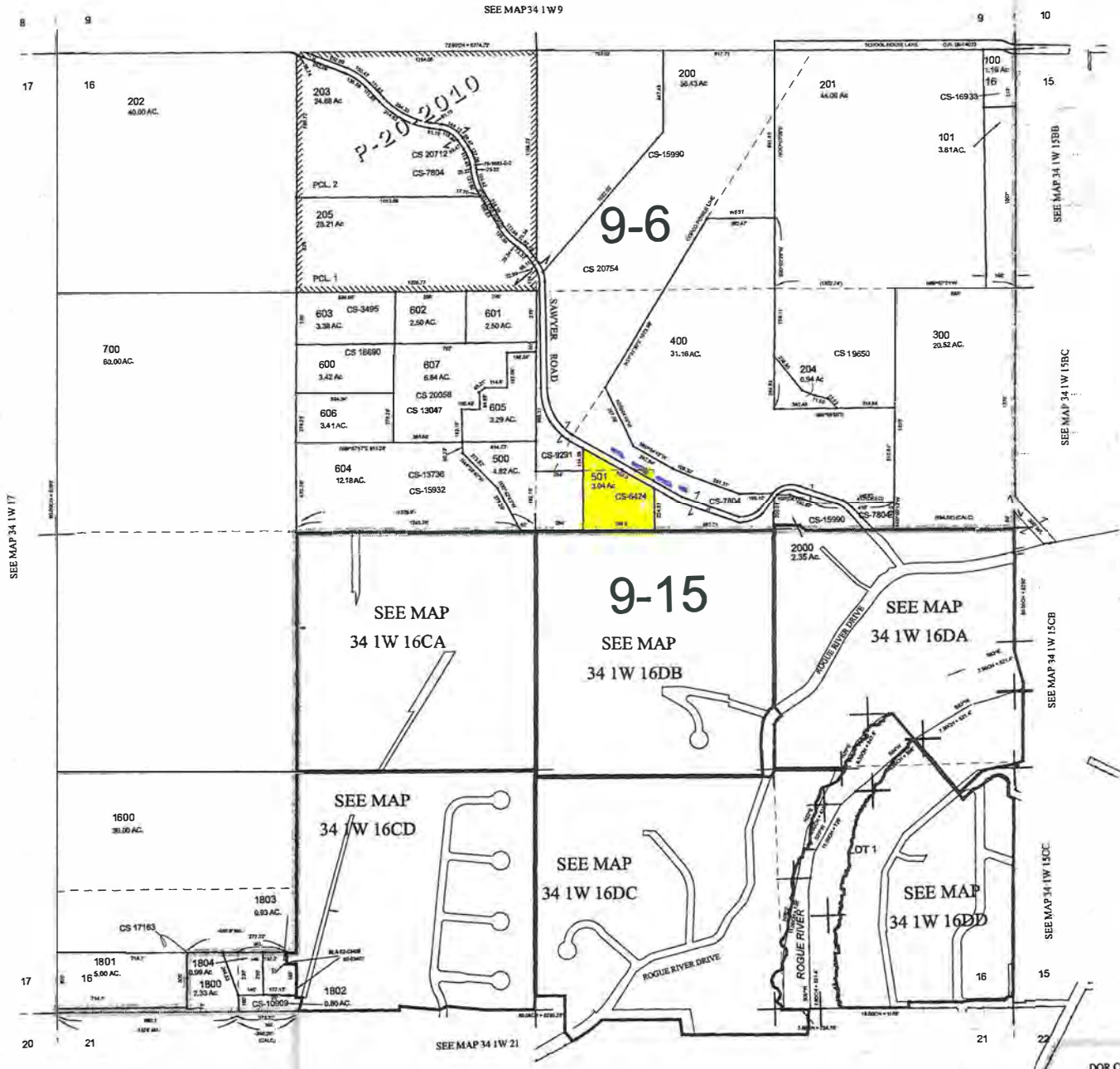




FOR ASSESSMENT AND TAXATION ONLY

SECTION 16, T.34S., R.1W., W.M.  
JACKSON COUNTY  
1" = 400'

34 1W 16  
SHADY COVE



CANCELLED TAX LOT NUMBERS:

- 1000
- 1100
- 1102
- 1103
- 1200
- 1201
- 1300
- 1700
- 1803
- 1804
- 1805
- 1900
- 800
- 804
- 811
- 900
- 905

34 1W 16  
SHADY COVE

DOR CONVERSION AUGUST 14, 2000  
REV NOVEMBER 18, 2010

**EXHIBIT " B2 "**

S.W. 1/4, SECTION 16 / N.E. 1/4 16

34 1W 16  
TL-200

**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

*CAEL E. NEATHAMER*

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
58545

*Renewal Date 12/31/10*

34 1W 16  
TL-200

SAWYER ROAD

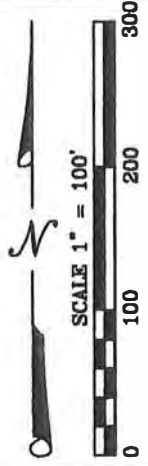
**WATERLINE  
EASEMENT**

34 1W 16  
TL-500

34 1W 16  
TL-501

34 1W 16  
TL-200

CENTER 1/4  
SEC. 16



6





01418757201000088020080061

I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk's records.  
Christine Walker - County Clerk

**RECORDING COVER SHEET**

PER ORS 205.234

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING. ANY ERRORS IN THIS COVER SHEET DOES NOT AFFECT THE TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.

**AFTER RECORDING RETURN TO:**

name and address of the person authorized to receive the instrument after recording, as required by ORS 205.180(4) and ORS 205.238

Daniel B. O'Connor

823 Alder Creek Drive

Medford, OR 97504

1. NAMES OF THE TRANSACTION(S), described in the attached instrument and required by ORS 205.234(A)  
NOTE: Transaction as defined by ORS 205.010 "means any action required or permitted by state law or rule federal law or regulation to be recorded including, but not limited to, any transfer, encumbrance or release affecting title to or an interest in real property".

Grant of Easement

2. Grantor(s) as described in ORS 205.160.

Kenneth R. Kiernan

3. Grantee(s) as described in ORS 205.160.

Shady Cove Waterworks, LLC

4. TRUE AND ACTUAL CONSIDERATION PAID for instruments conveying or contracting to convey fee title to any real estate and all memoranda of such instruments, reference ORS 93.030.

n/a

5. UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING

ADDRESS: for instruments conveying or contracting to convey fee title to any real estate reference ORS 93.260.

n/a

## GRANT OF EASEMENT

**THIS GRANT OF EASEMENT** is made between **KENNETH R. KIERNAN** ("Grantor"), as grantor, and **SHADY COVE WATERWORKS, LLC**, an Oregon limited liability Company ("Waterworks"), as grantee.

### RECITALS

- A.** Grantor is the owner of certain real property located in Jackson County, Oregon, and commonly known as Township 34 South, Range 1 West, Section 16, Tax Lot 501 ("Tax Lot 501"), a more particular description being attached hereto as **Exhibit "A"**.
- B.** Waterworks owns and intends to operate a quasi-municipal water system. Existing water line(s) run over and across Tax Lot 501.
- C.** The parties desire to provide for an easement for underground water service line(s).

### AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. In consideration of the sum of **Two Thousand and No/100 Dollars (\$2,000.00)** paid to Grantor, receipt of which is acknowledged by Grantor, Grantor grants and conveys to Waterworks a 20.00 foot wide easement over and across Tax Lot 501 for the installation, operation, maintenance, replacement and repair of existing and future underground water lines and above ground appurtenances associated with such water lines located within the easement area ("the easement"). A more particular description of the easement is attached hereto as **Exhibit "B"**.
2. No buildings shall be constructed within the easement or which encroach on the easement. Waterworks shall maintain and repair such water lines and appurtenances. Waterworks shall repair any damage to Tax Lot 501 resulting from its installation, operation, maintenance, replacement and repair of such water lines and appurtenances.
3. The easement granted herein is perpetual and non-exclusive.
4. Grantor shall have the right to connect to and utilize domestic water from the aforementioned water line(s) subject to any connection and usage fees established by Waterworks or its successor(s) in interest at such time that domestic water becomes available to Tax Lot 501.
5. The easement granted herein is appurtenant to the real properties described herein. It is the intent of the parties that the easement granted herein shall run with the land. The easement granted herein shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. If necessary to allow for the installation, operation, maintenance, replacement and repair of such water lines and appurtenances, the parties, or any of them, may assign or grant to public or private utility entities the benefits of this grant of easement.

6. The parties agree to cooperate and execute any and all documents necessary to effectuate the terms of this agreement. At the request of any party, the other parties hereto agree to execute such documents, statements and certificates as may be reasonably necessary to confirm or certify the existence and effectiveness of this agreement.

7. In case of suit, action or proceeding to enforce any rights or conditions of this contract or appeal from said suit, action or proceeding, it is mutually agreed that the losing party in such suit, action, proceeding or appeal shall pay the prevailing party therein a reasonable attorney's fee in such amount as set by the court hearing such suit, action, proceeding or appeal.

**IN WITNESS WHEREOF**, the parties have set their hands to this instrument on the date set forth below.

3-17-10  
Date

Kenneth R. Kiernan  
Kenneth R. Kiernan  
SHADY COVE WATERWORKS, LLC

3/17/10  
Date

[Signature]  
By: Rich Hieb, Manager

STATE OF OREGON )  
County of Jackson ) ss.

March 17, 2010

Personally appeared the above named Kenneth R. Kiernan and acknowledged his execution of said instrument to be his voluntary act and deed.



Stacey Mattson  
Notary Public for Oregon  
My Commission Expires: 2-27-11

STATE OF OREGON )  
County of Jackson ) ss.

3-17-, 2010

Personally appeared Rich Hieb who, being duly sworn, did say that he is a Manager of Shady Cove Waterworks, LLC, an Oregon limited liability company, and that said instrument was signed and sealed in behalf of said company, and he acknowledged said instrument to be its voluntary act and deed.

Before me:

Elaine George  
Notary Public for Oregon  
My Commission Expires: 8-29-2011

TAX LOT 501  
WATERWORKS EASEMENT  
Page 2 of 2

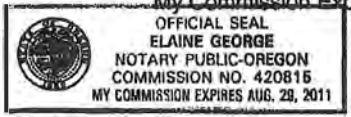


EXHIBIT 'A'

Commencing at the Southwest corner of the Southwest Quarter of the Northeast Quarter of Section 16 in Township 14 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, thence East, along the South line of said quarter-quarter 264.0 feet to the true point of beginning; thence North 330.0 feet; thence East 396.0 feet; thence South 330.0 feet to the South line of said quarter-quarter; thence West, along said line, 396.0 feet to the true point of beginning.

For informational purposes only, the following is included:  
(Map No. 341W15, Tax Lot 501, Account No. 1-022269-1, Code 9-06)

34



**EXHIBIT "B1"**

A 20.00 feet wide Waterline Easement located within a portion of that real property described in Instrument Number 2008-034951 of the Official Records of Jackson County, Oregon, being located within a portion of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon. The sidelines of this easement are to be 10.00 feet each side of the following described centerline:

Commencing at the Center One-quarter of said Section 16; thence North 89°57'26" East, along the South line of the Southwest One-quarter of the Northeast One-quarter of said Section 16, 660.00 feet; thence North, along the east line of that tract of land described in Instrument Number 90-28599 of the Official Records of Jackson County, Oregon, 290.45 feet to the **True Point of Beginning**; thence leaving said east tract line, North 65°22'58" West, 94.25 feet to the terminus of this easement, being a point on the northerly line of that tract of land described in Instrument Number 88-22759 of the Official Records of Jackson County, Oregon.

The sidelines of this easement are to meet at angle points and be 10.00 feet each side of the herein and above described centerline.

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor.

**PREPARED BY:**

Neathamer Surveying, Inc.  
3126 State Street, Suite 100  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382

Date Prepared: September 15, 2009



*Caël E. Neathamer*



RENEWAL DEC. 31, 2010

5

EXHIBIT " 82 "

S.W. 1/4, SECTION 16 / N.E. 1/4 16

34 1W 16  
TL-200

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*CAEL E. NEATHAMER*

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
56545

*Renewal Date 12/31/10*

34 1W 16  
TL-200

SAWYER ROAD

WATERLINE  
EASEMENT

34 1W 16  
TL-500

34 1W 16  
TL-501

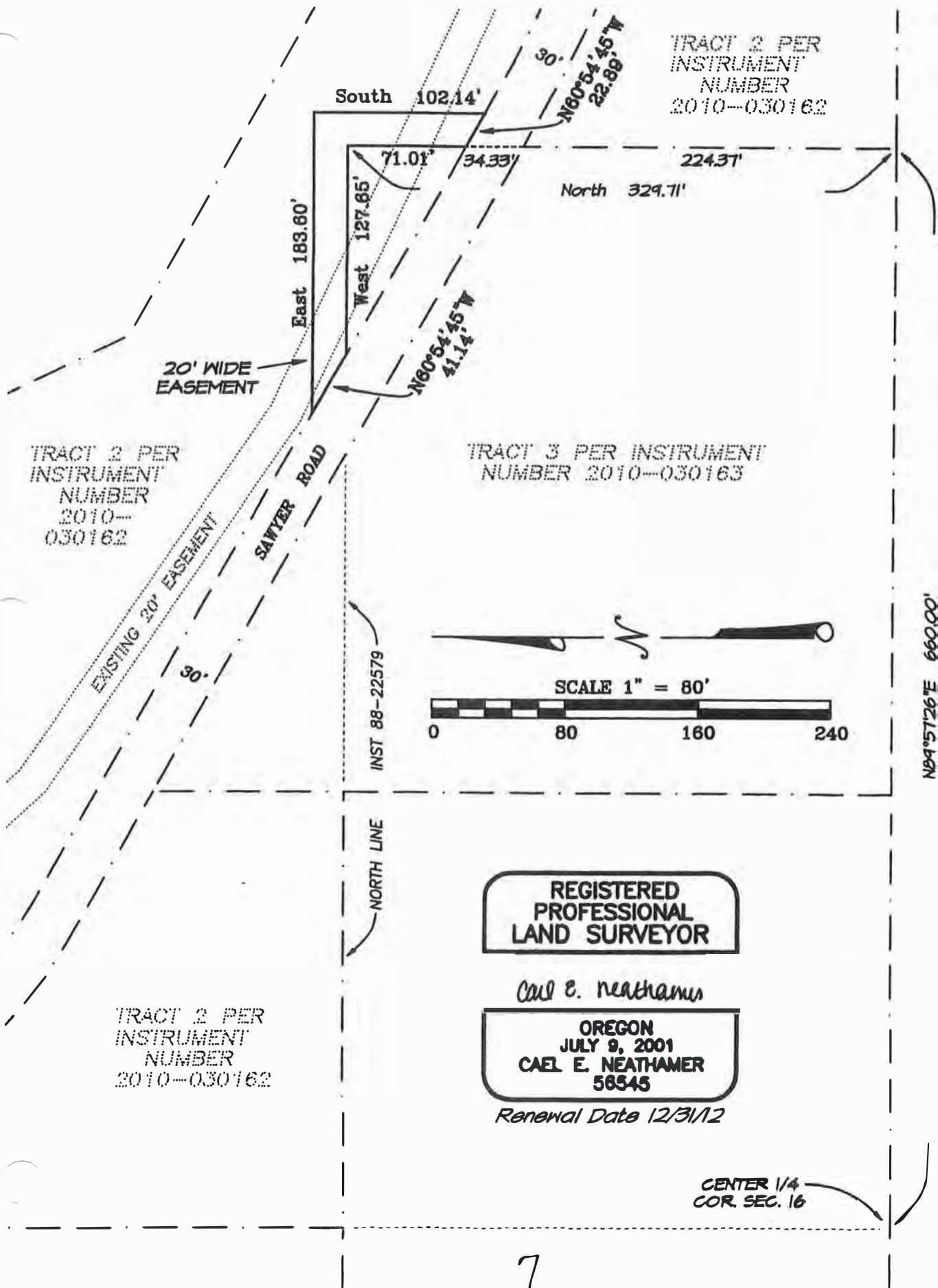
34 1W 16  
TL-200

CENTER 1/4  
SEC. 16





**EXHIBIT " B "**



**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

*Carl E. Neatham*

**OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
56545**

*Renewal Date 12/31/12*





01489721201100210110070072

I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Christine Walker - County Clerk

**After recording return to:**  
Daniel O'Connor  
Huycke, O'Connor, Jarvis & Lohman, LLP  
823 Alder Creek Drive  
Medford, Oregon 97504

## GRANT OF EASEMENT

**THIS GRANT OF EASEMENT** is made between **Red Carpet, LLC**, an Oregon limited liability company ("Red Carpet"), as grantor, and **Shady Cove Waterworks, LLC**, an Oregon limited liability Company ("Waterworks"), as grantee.

### RECITALS

- A.** Red Carpet is the owner of certain real property located in Jackson County, Oregon, and commonly known as Township 34 South, Range 1 West, Section 16, Tax Lot 200 ("the subject property"), a more particular description of the subject property being attached hereto as **Exhibit "A"**.
- B.** Waterworks owns and intends to operate a quasi-municipal water system.
- C.** The parties desire to provide for an easement for underground water services.

### AGREEMENT

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

- 1.** Red Carpet grants and conveys to Waterworks a 20-foot wide easement over and across the subject property for the installation, operation, maintenance, replacement and repair of underground water lines and above ground appurtenances associated with such water lines located within the easement area ("the easement"). A more particular description of the easement is attached hereto as **Exhibit "B"**. In addition to the easement, Waterworks shall be allowed occasional ingress/egress over the subject property to the easement as is reasonably necessary for the installation, maintenance, replacement and repair of the underground water lines and above ground appurtenances associated with such water lines.
- 2.** No buildings shall be constructed within the easement or which encroach on the easement. Waterworks shall maintain and repair such water lines and appurtenances. Waterworks shall repair any damage to the subject property resulting from its installation, operation, maintenance, replacement and repair of such water lines and appurtenances.
- 3.** The easement granted herein is perpetual and non-exclusive.

4. The easement granted herein is appurtenant to the real property described herein. It is the intent of the parties that the easement granted herein shall run with the land. The easement granted herein shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. If necessary to allow for the installation, operation, maintenance, replacement and repair of such water lines and appurtenances, Waterworks, its successors or assigns, or any of them, may assign or grant to public or private utility entities the benefits of this grant of easement.

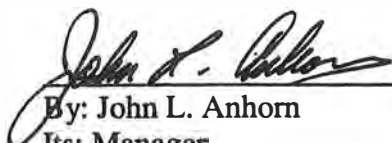
5. The parties agree to cooperate and execute any and all documents necessary to effectuate the terms of this agreement. At the request of any party, the other parties hereto agree to execute such documents, statements and certificates as may be reasonably necessary to confirm or certify the existence and effectiveness of this agreement.

6. In case of suit, action or proceeding to enforce any rights or conditions of this contract or appeal from said suit, action or proceeding, it is mutually agreed that the losing party in such suit, action, proceeding or appeal shall pay the prevailing party therein a reasonable attorney's fee in such amount as set by the court or arbitrator(s) hearing such suit, action, proceeding or appeal.

**IN WITNESS WHEREOF**, the parties have set their hands to this instrument on the date set forth below.

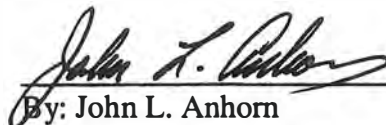
RED CARPET, LLC

7-19-11  
Date

  
By: John L. Anhorn  
Its: Manager

SHADY COVE WATERWORKS, LLC

7-19-11  
Date

  
By: John L. Anhorn  
Its: Manager

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STATE OF OREGON            )  
  ) ss.  
County of Jackson         )

July 19, 2011

Personally appeared John L. Anhorn who, being duly sworn, did say that he is a Manager of Red Carpet, LLC, an Oregon limited liability company, and that said instrument was signed and sealed in behalf of said company, and he acknowledged said instrument to be its voluntary act and deed.

Before me:



Lisa Canon  
Notary Public for Oregon  
My Commission Expires: 4-20-14

STATE OF OREGON            )  
  ) ss.  
County of Jackson         )

July 19, 2011

Personally appeared John L. Anhorn who, being duly sworn, did say that he is a Manager of Shady Cove Waterworks, LLC, an Oregon limited liability company, and that said instrument was signed and sealed in behalf of said company, and he acknowledged said instrument to be its voluntary act and deed.

Before me:



Lisa Canon  
Notary Public for Oregon  
My Commission Expires: 4-20-14



EXHIBIT "A"

TRACT 2 DESCRIPTION

All that real property being portions of Instruments Numbered 2009-027500 and 2009-041862 of the Official Records of Jackson County, Oregon; located in the Northeast One-quarter of the Southwest One-quarter and in the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, in Jackson County, Oregon. The exterior boundary of which more particularly described as follows:

Commencing at the One-quarter corner common to Sections 9 and 16 of said township and range; thence South  $89^{\circ}53'44''$  East, along the common line of Sections 9 and 16, 703.02 feet to the True Point of Beginning; thence South  $89^{\circ}53'44''$  East, continuing along said common line, 617.71 feet to the East One-sixteenth corner common to Sections 9 and 16; thence South  $00^{\circ}02'01''$  West, along the east boundary of the Northwest One-quarter of the Northeast One-quarter of Section 16, 941.40 feet; thence leaving said east boundary, West, 382.26 feet to the centerline of an existing electric transmission and distribution easement per Volume 90 at Page 610 of the Deed Records of Jackson County, Oregon; thence South  $31^{\circ}31'30''$  West, along said centerline, 1073.99 feet; thence leaving said centerline, South  $26^{\circ}04'40''$  East, 367.59 feet; thence South  $60^{\circ}54'45''$  East, 242.54 feet to the beginning of a tangent curve to the left, having a radius of 650.00 and a central angle of  $09^{\circ}38'15''$  (the long chord of which bears South  $65^{\circ}43'53''$  East, 109.21 feet); thence along the arc of said curve 109.33 feet; thence South  $70^{\circ}33'00''$  East, 291.31 feet; thence East, 187.46 feet to a point on the northerly right-of-way of Sawyer Road (a public road pursuant to a Court Decree dated August 18, 1980, Case Number 79-1663-E-2 of the Circuit Court of the State of Oregon for the County of Jackson); thence continuing East, 7.69 feet to a point on the east boundary of the Southwest One-quarter of the Northeast One-quarter of Section 16; thence South  $00^{\circ}02'01''$  West, along said east boundary, 200.26 feet to the Center-East One-sixteenth corner of Section 16; thence South  $89^{\circ}57'26''$  West along the south boundary of said Southwest One-quarter of the Northeast One-quarter of Section 16, 665.21 feet; thence North, along the east line of Instrument Number 90-28599 of the Official Records of Jackson County, Oregon, 224.37 feet to a point on the southerly right-of-way of said Sawyer Road; thence North  $60^{\circ}54'45''$  West along said southerly right-of-way, 452.00 feet; thence South  $00^{\circ}07'50''$  West, 114.39 feet to a point on the north line of Instrument Number 88-22579 of the Official Records of Jackson County, Oregon; thence West, along said north line, 264.00 feet to intersect the North-South Centerline of Section 16; thence North  $00^{\circ}07'50''$  East, along said North-South Centerline, 995.31 feet to the Center-North One-sixteenth corner of Section 16; thence South  $89^{\circ}57'30''$  East, along the south boundary of the Northwest One-quarter of the Northeast One-quarter of Section 16, 15.15 feet to a point on the westerly right-of-way of said Sawyer Road; thence North  $00^{\circ}07'50''$  East, along said westerly right-of-way, 49.44 feet; thence North  $22^{\circ}13'30''$  East, 57.60 feet to a point on the easterly right-of-way of said Sawyer Road; thence North  $40^{\circ}48'42''$  East, leaving said right-of-way, 1022.02 feet; thence North  $00^{\circ}07'50''$  East, 447.45 feet to the Point of Beginning. EXCEPTING THEREFROM: Any portion described herein, lying within Sawyer Road (a public road pursuant to a Court Decree dated August 18, 1980, Case Number 79-1663-E-2 of the Circuit Court of the State of Oregon for the County of Jackson).



**(TRACT 2 DESCRIPTION CONTINUED)**

Containing 36.43 acres, more or less.

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor. Measurement along said line is South 00°07'50" West, 2650.51 feet from the North One-quarter corner to the Center One-quarter corner of Section 16.

**PREPARED BY:**

Neathamer Surveying, Inc.  
3126 State Street, Suite 100  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382  
Project No: 09025-F

Date Prepared: August 3, 2010



*CAEL E. NEATHAMER*



RENEWAL: DEC. 31, 2010

**EXHIBIT " B "**

**20-FOOT WIDE EASEMENT**

All that real property located within a portion of that tract of land described in Instrument Number 2010-030162 of the Official Records of Jackson County, Oregon, located in the Southwest One-quarter of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, in Jackson County, Oregon. The exterior boundary of which more particularly described as follows:

Commencing at the Center One-quarter corner of Section 16 in said township and range; thence North  $89^{\circ}57'26''$  East, along the south boundary of the Southwest One-quarter of the Northeast One-quarter of Section 16, 660.00 feet to the southeast corner of that tract of land described in Instrument Number 2010-030163 of the Official Records of Jackson County, Oregon; thence North, along the east line of said tract, 224.37 feet to a point on the southerly right-of-way of Sawyer Road (a public road pursuant to a Court Decree dated August 18, 1980, Case Number 79-1663-E-2 of the Circuit Court of the State of Oregon for the County of Jackson); thence continuing North, 34.33 feet to a point on the northerly side of said right-of-way, also being a point on the easterly line of that tract of land described in Instrument Number 2009-041862 of the Official Records of Jackson County, Oregon, and the **TRUE POINT OF BEGINNING**; thence continuing North along said east line of Instrument Number 2009-041862, 71.01 feet to the northeast corner thereof; thence West, along the north line of said Instrument Number 2009-041862, 127.65 feet to a point on said northerly right-of-way of Sawyer Road; thence North  $60^{\circ}54'45''$  West, along said northerly right-of-way, 41.14 feet; thence East, leaving said right-of-way and being 20.00 feet northerly of, when measured at right angles to said northerly right-of-way of Sawyer Road, 183.60 feet; thence South, being 20.00 feet easterly of, when measured at right angles to said east line of Instrument Number 2009-041862, 102.14 feet to a point on said northerly right-of-way of Sawyer Road; thence North  $60^{\circ}54'45''$  West, along said right-of-way, 22.89 feet to the Point of Beginning.

Containing 4,844 square feet, more or less.

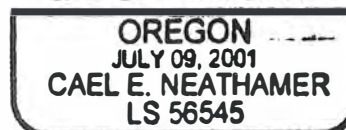
Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor. Measurement along said line is South  $00^{\circ}07'50''$  West, 2650.51 feet from the North One-quarter corner to the Center One-quarter corner of Section 16.

**PREPARED BY:**

Neathamer Surveying, Inc.  
3126 State Street, Suite 100  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382  
Project No: 09025-K



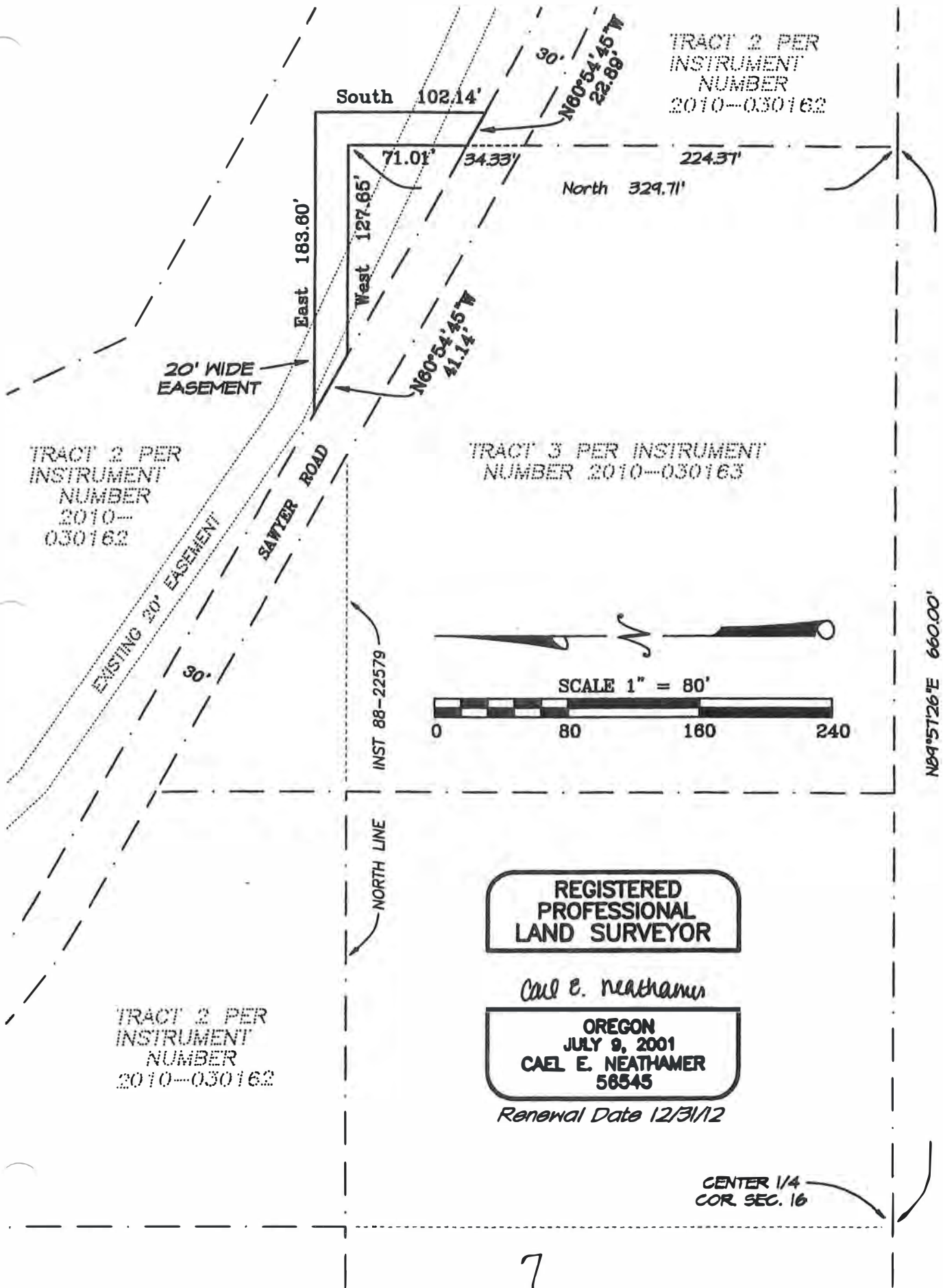
*Cael E. Neathamer*



RENEWAL DEC. 31, 2012

Date Prepared: July 12, 2011

**EXHIBIT " B "**



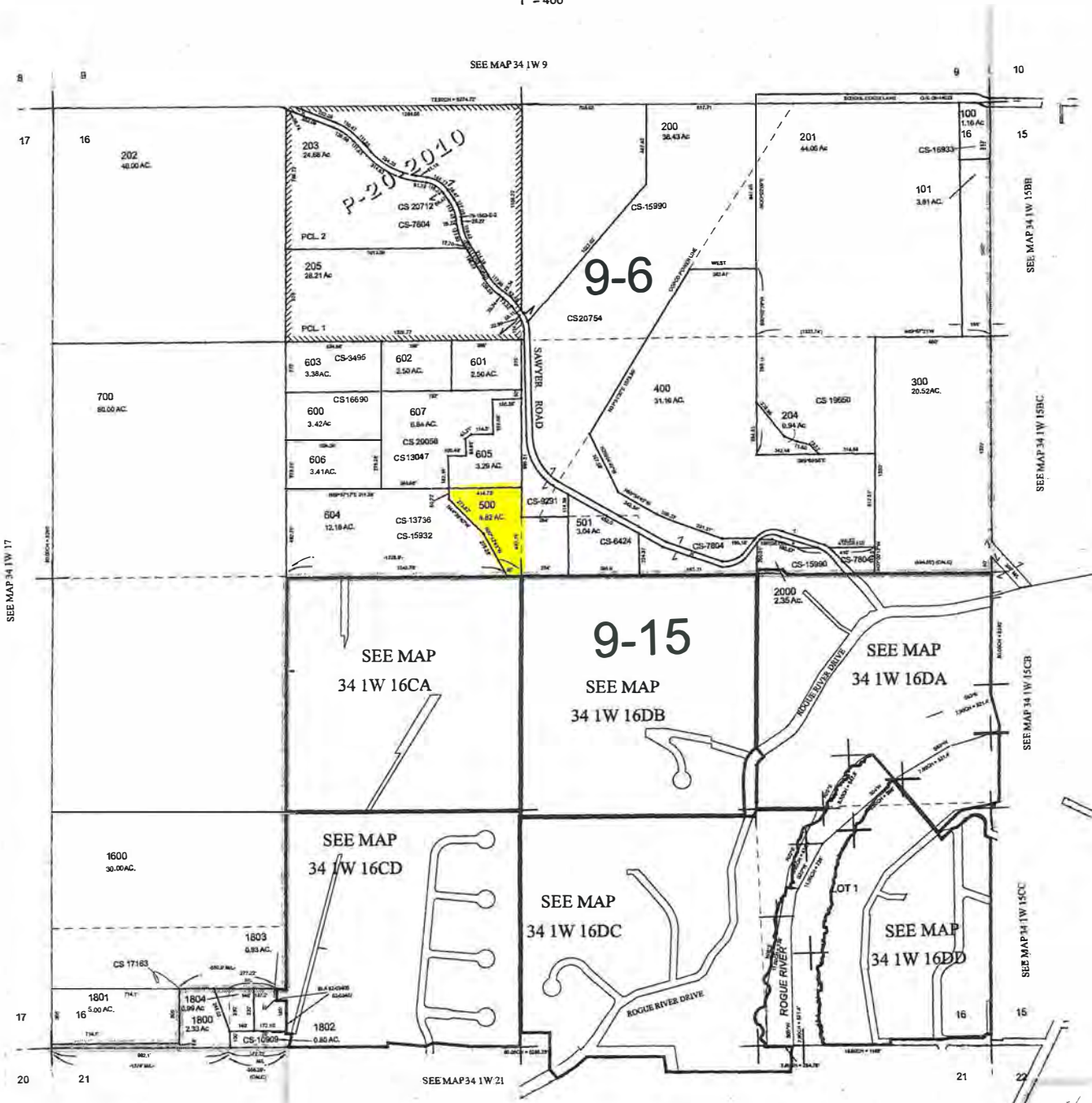




FOR ASSESSMENT AND  
TAXATION ONLY

SECTION 16, T.34S., R.1W., W.M.  
JACKSON COUNTY  
1" = 400'

34 1W 16  
SHADY COVE



CANCELLED TAX  
LOT NUMBERS:

- 1000
- 1100
- 1102
- 1103
- 1200
- 1201
- 1300
- 1700
- 1803
- 1804
- 1805
- 1900
- 800
- 804
- 811
- 900
- 905

34 1W 16  
SHADY COVE

REVISION AUGUST 14, 2000  
OCTOBER 18, 2010



01445547201000310560040040  
I, Christine Walker, County Clerk for Jackson County, Oregon, certify  
that the instrument identified herein was recorded in the Clerk  
records.  
Christine Walker - County Clerk

**AFTER RECORDING RETURN TO:**

David H. Lohman  
823 Alder Creek Drive  
Medford, OR 97504

**UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO THE FOLLOWING:**

No Change

**GRANT OF EASEMENT – TAX LOT 500**

**THIS GRANT OF EASEMENT** is made between **SCOTT VALLEY BANK**, a California state-chartered bank (“SVB”), as grantor and **SHADY COVE WATERWORKS, LLC**, (“Waterworks”), as grantee.

**RECITALS**

- A.** SVB is the owner of certain real property described in Instrument Number 2009-007522 of the Official Records of Jackson County, Oregon, and more commonly known as Township 34 South, Range 1 West, Section 16, Tax Lot 500 (“Tax Lot 500”), a more particular description of this property being attached hereto as **Exhibit “A”**.
- B.** Waterworks owns and intends to operate an irrigation and municipal water system.
- C.** The parties desire to provide for an easement for the underground waterline.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**AGREEMENT**

- 1.** The parties agree that the Recitals set forth above are hereby incorporated herein and deemed a material part of this grant of easement agreement (“Agreement”).
- 2.** SVB grants and conveys to grantee a 20.00 foot wide easement over and across Tax Lot 500 for the installation, operation, maintenance, replacement and repair of a water line and above ground appurtenances, if any, associated with said water line located within the easement area (“the Easement”). A more particular description of the Easement is attached hereto as **Exhibit “B”**.
- 3.** Waterworks shall have the right, with reasonable notice and without prior initiation of any suit or proceeding at law or equity, at all times as may be necessary to enter upon Tax Lot 500 to install, lay, construct, remove, replace, renew, use and operate the subject waterline. Waterworks shall maintain and repair the subject waterline and appurtenances, if any. Waterworks shall repair any damage to Tax Lot 500 resulting from operation, maintenance,

ATTACHMENT H

replacement or repair of the waterline and any appurtenances thereto.

4. No buildings shall be constructed within the easement or which encroach on the Easement.

5. The Easement granted herein is perpetual and non-exclusive and shall run with the land. This Agreement shall be recorded in the Official Records of Jackson County, Oregon.

6. The parties agree to cooperate and execute any and all documents necessary to effectuate the terms of this Agreement. At the request of any party, the other parties hereto agree to execute such documents, statements and certificates as may be reasonably necessary to confirm or certify the existence and effectiveness of this Agreement.

7. In case of suit, action or proceeding to enforce any rights or conditions of this Agreement or appeal from said suit, action or proceeding, it is mutually agreed that the losing party in such suit, action, proceeding or appeal shall pay the prevailing party therein a reasonable attorney's fee in such amount as set by the court or arbitrator hearing such suit, action, proceeding or appeal.

8. This Agreement has been entered into in the State of Oregon and the subject property is located in the State of Oregon. The parties agree that the laws of the State of Oregon shall be used in construing this Agreement and enforcing the rights and remedies of the parties.

9. The Easement granted herein shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. If necessary to allow for the operation, maintenance, replacement and repair of the subject waterline and appurtenances, the parties, or any of them, may assign or grant to public or private utility entities the benefits of this grant of easement.

12. Each party intends that this Agreement in all respects shall be deemed and construed to be equally and mutually prepared by all parties and it is hereby expressly agreed that any uncertainty or ambiguity shall not be construed for or against any party.

13. This Agreement may be executed by the parties in separate counterparts, each of which when executed and delivered shall be an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have set their hands to this instrument on the date set forth below.

9-1-10  
Date

SCOTT VALLEY BANK

By: [Signature]  
Its: EDYCCO

SHADY COVE WATERWORKS, LLC

2





**Exhibit "A"**

That property described in Instrument Number 2009-7522 of the Official Records of Jackson County, Oregon, and more commonly known as Township 34 South, Range 1 West, Section 16, Tax Lot 500.

**Tract A:**

Beginning at the Southwest corner of the Southwest Quarter of the Northeast Quarter of Section 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence East, along the south line of said quarter-quarter, 264.0 feet; thence North 330.0 feet; thence West 264.00 feet to the West line of said quarter-quarter; thence South, along said West line, 330.0 feet to the point of beginning; also including the following described parcel of land defined in Lot Line Adjustment #92-17-LLA as approved by the Jackson County Planning Department May 26, 1992. Commencing at the Southeast corner of the Northwest Quarter of said Section 16 at a 3/4" iron rod as shown on Recorded Survey #3495; thence South 89°57'17" West along the South line of the Northwest Quarter of said Section 80.00 feet to a 5/8" inch iron rod; thence North 30°42'43" West 276.26 feet to a 5/8" iron rod; thence North 44°39'40" West 273.82 feet to a 5/8" iron rod; thence North 00°02'43" West 60.22 feet to a 5/8" iron rod on the North boundary of the parcel described in Jackson County Official Records #89-17950; thence North 89°57'17" East along the North Boundary of said parcel 414.82 feet to a point where the projected line intersects the East line of the Northwest Quarter of said Section 16; thence South 0°07'50" West 492.76 feet to the point of beginning.

**Tract B:**

An easement for ingress and egress including the terms and provisions thereof, as set forth in Document(s) recorded January 13, 1985, as Document Number(s) 85-13341, Deed Records of Jackson County.

For Informational purposes only, the following is included:  
(Map No. 341W16, Tax Lot 500, Account No. 1-025273-3, Code 9-06)

4-



# MAP OF SURVEY

A PROPERTY LINE ADJUSTMENT, located in the Northwest One-quarter of the Northeast One-quarter, and the Northwest One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon

## PREPARED FOR:

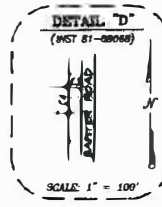
**PREMIERWEST BANK**  
503 Airport Road  
PO Box 40  
Medford, OR 97501

## EASEMENT CURVE TABLE

LINE	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
EC1	31°17'52"	47.50'	11.83'	N43°20'32"E	11.82'
EC2	94°27'52"	22.50'	23.99'	N62°05'51"E	22.82'

## EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
E1	N50°38'00"W	5.08'
E2	S22°14'47"W	82.36'
E3	S84°52'02"E	8.15'
E4	S00°07'30"W	30.00'
E5	N40°54'46"W	32.18'
E6	S60°54'46"E	112.8'
E7	N82°21'45"E	161.04'
E8	N82°21'45"E	150.84'
E9	S84°52'02"E	84.85'
E10	N00°07'30"W	4.78'
E11	S84°52'02"E	175.26'
E12	N41°38'02"E	48.08'
E13	N00°07'30"W	128.21'
E14	N82°47'50"E	140.22'



## LEGEND:

- Indicates a set 5/8 inch diameter iron pin, 30 inches in length, with an orange plastic cap marked "NEATHAMER SURVEYING".
- ⊙ Indicates a found 5/8 inch diameter iron pin with an orange plastic cap marked "C NEATHAMER L5 365-45", per SN 20712.
- Indicates a found 5/8 inch diameter iron pin per SN 3445; or, as otherwise noted hereon.
- ⊙ Indicates a found 3/4 inch diameter iron pin per SN 3445.
- ▲ Indicates a found 5/8 inch diameter iron pin per SN 1804.
- ⊙ Indicates a found 3 inch diameter brass cap marking the east quarter corner of Section 16, per Jackson County Re-establishment Notes; or, as noted hereon.
- Indicates a computed position.
- ( ) Indicates record information per INST 2002-60163, and SN 15940.
- [ ] Indicates record information per SN 3445 and/or SN 6424.
- SN Indicates a Survey as filed in the office of the Jackson County Surveyor.
- INST Instrument recorded by number in the Jackson County Clerks office.

## BASIS OF BEARINGS:

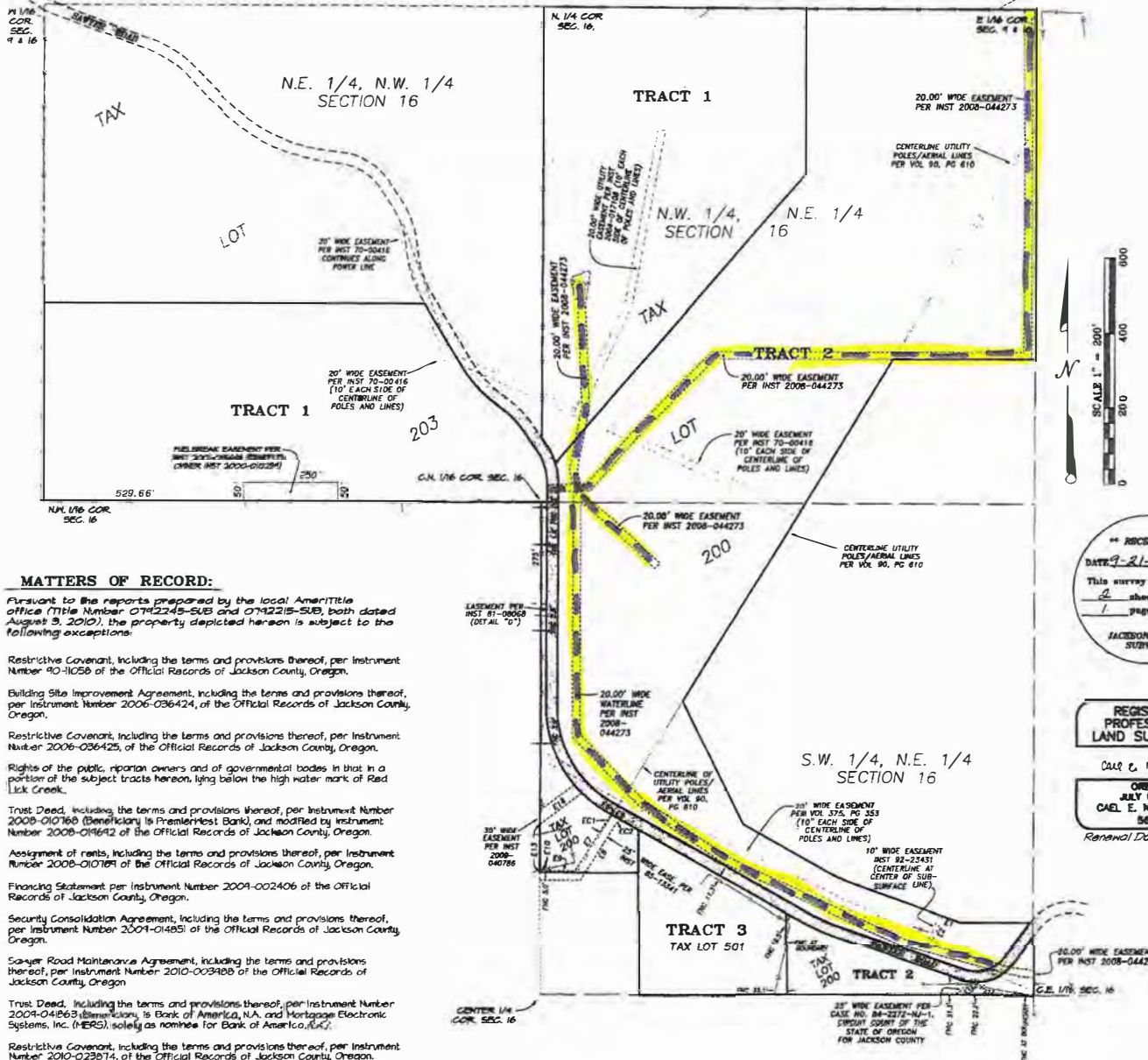
The true line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3445, as filed in the office of the Jackson County Surveyor.

**PREPARED BY:** Neathamer Surveying, Inc.  
3126 State St, Suite 100  
P.O. Box 1584  
Medford, Oregon 97501  
Phone (541) 732-2869  
FAX (541) 732-1382

**PLOT DATE:** September 15, 2010 **PROJECT NUMBER:** 09025-P

Sheet 2 of 2 © cen

## SECTION 9



## MATTERS OF RECORD:

Pursuant to the reports prepared by the local AmeriTitle office (Title Number 0792245-SUB and 0792215-SUB, both dated August 3, 2010), the property depicted hereon is subject to the following exceptions:

Restrictive Covenant, including the terms and provisions thereof, per Instrument Number 90-11050 of the Official Records of Jackson County, Oregon.

Building Site Improvement Agreement, including the terms and provisions thereof, per Instrument Number 2006-036424, of the Official Records of Jackson County, Oregon.

Restrictive Covenant, including the terms and provisions thereof, per Instrument Number 2006-036425, of the Official Records of Jackson County, Oregon.

Rights of the public, riparian owners and of governmental bodies in that in a portion of the subject tracts hereon, lying below the high water mark of Red Lick Creek.

Trust Deed, including the terms and provisions thereof, per Instrument Number 2008-010760 (Beneficiary is PremierWest Bank), and modified by Instrument Number 2008-014642 of the Official Records of Jackson County, Oregon.

Assignment of rents, including the terms and provisions thereof, per Instrument Number 2008-010761 of the Official Records of Jackson County, Oregon.

Financing Statement per Instrument Number 2009-002406 of the Official Records of Jackson County, Oregon.

Security Consolidation Agreement, including the terms and provisions thereof, per Instrument Number 2007-014851 of the Official Records of Jackson County, Oregon.

Sawyer Road Maintenance Agreement, including the terms and provisions thereof, per Instrument Number 2010-003488 of the Official Records of Jackson County, Oregon.

Trust Deed, including the terms and provisions thereof, per Instrument Number 2004-041863 (Beneficiary is Bank of America, N.A. and Mortgage Electronic Systems, Inc. (MERS), solely as nominee for Bank of America, N.A.).

Restrictive Covenant, including the terms and provisions thereof, per Instrument Number 2010-023874, of the Official Records of Jackson County, Oregon.

Jackson County Official Records **2008-044273**

R-E **12/15/2008 10:51:56 AM**

Cnt=1 Stn=3 MORGANS  
\$15.00 \$5.00 \$5.00 \$11.00 **Total:\$36.00**



I, Christine Walker, County Clerk of Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Christine Walker - County Clerk

After recording, return to:  
Debbie Vincent  
Attorney at Law  
P.O. Box 4606  
Medford, OR 97501  
Mail tax statements to:  
No Change

**EASEMENT DEED**

Grantor: **Boehm Irrevocable Liquidating Trust**  
Grantee: **Shady Cove Waterworks, LLC**

Consideration: **Mutual Benefit**

**BOEHM IRREVOCABLE LIQUIDATING TRUST**, Grantor, hereby grants and conveys unto **SHADY COVE WATERWORKS, LLC**, Grantee, a utility easement over, under, and across the real property of grantors, described as:

See Attached Exhibit "A"

Said easement herein conveyed is for the purpose of constructing, reconstructing, maintaining, using, operating, and repairing pipeline facilities of the Shady Cove Waterworks, LLC water system of grantee together with the right to make such excavation therein as grantee may require and deem convenient for the installation, repair or maintenance of such facilities; including such reasonable right of ingress and egress to and from such easement as may be necessary to carry out its purposes. No other facility shall be placed within three feet of the water main.

Grantor reserves the right to use and possess such land within the easement as shall not interfere with Grantee's use thereof for the purposes above set forth, but grantor shall not cause any buildings or permanent structures to be constructed over any part of the easement without grantee's consent.

Maintenance of the utility shall be the responsibility of the Shady Cove Waterworks, LLC.

Dated December 9, 2008

**BOEHM IRREVOCABLE LIQUIDATING TRUST**

By: R. Kim Short  
Title: Trustee

STATE OF OREGON )  
 ) ss.  
County of Lane )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of December, 2008, by R. Kim Short,

Notary Public for Oregon  
My commission expires 9-10-2011





**EXHIBIT "A"**

All of those 20.00 foot wide Waterline Easements located within a portion of that real property described in Instrument Number 2002-68162 of the Official Records of Jackson County, Oregon, being located within a portion of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon. The sidelines of said easements are more particularly described as follows:

Commencing at the Southwest Corner of the Northwest One-quarter of the Northeast One-quarter of said Section 16; thence North 00°07'50" East, along the West line thereof, 35.57 feet; thence leaving said West line, North 87°33'52" East, 45.20 feet to a point on the easterly right of way of a Public Road pursuant to Jackson County Court Decree dated August 18, 1980; Case Number 79-1663-E-2, and the **True Point of Beginning**; thence leaving said right of way, and continuing North 87°33'52" East, 80.00 feet; thence North 42°15'53" East, 201.72 feet; thence North 44°43'37" East, 282.94 feet; thence East, 843.25 feet to a point being 20.00 feet westerly from, when measured at right angles to the East line of the Northwest One-quarter of the Northeast One-quarter of said Section 16; thence North 00°02'01" East, parallel to last said East line, 921.43 feet to a point that is 10.00 feet southerly from, when measured at right angles to the North line of said Section 16; thence South 89°53'44" East, parallel to said North line, 20.00 feet to intersect aforesaid East line of the Northwest One-quarter of the Northeast One-quarter of Section 16, and being the terminus of this easement.

**ALSO**, Commencing at the Southwest Corner of the Northwest One-quarter of the Northeast One-quarter of said Section 16; thence North 00°07'50" East, along the West line thereof, 35.57 feet; thence leaving said West line, North 87°33'52" East, 95.64 feet to the **True Point of Beginning**; thence North 87°33'52" East, 95.64 feet; thence North 12°26'30" West, 48.25 feet; thence North 11°05'33" East, 165.92 feet; thence North 02°21'11" West, 324.90 feet; thence South 85°18'34" East, 11.31 feet; thence North 85°18'34" West, 11.31 feet; thence North 85°18'34" West, 21.69 feet to the terminus of this easement.

**ALSO**, Commencing at the Southwest Corner of the Northwest One-quarter of the Northeast One-quarter of said Section 16; thence North 00°07'50" East, along the West line thereof, 35.57 feet; thence leaving said West line, North 87°33'52" East, 95.64 feet to the **True Point of Beginning**; thence South 00°07'50" West, 17.75 feet; thence South 48°19'09" East, 287.44 feet to the terminus of this easement.

**ALSO**, Commencing at the Southwest Corner of the Northwest One-quarter of the Northeast One-quarter of said Section 16; thence North 00°07'50" East, along the West line thereof, 35.57 feet; thence leaving said West line, North 87°33'52" East, 95.64 feet to the **True Point of Beginning**; thence South 00°07'50" West, 667.10 feet; thence South 43°56'38" East, 251.30 feet; thence South 56°03'27" East, 270.22 feet; thence South 65°22'58" East, 86.48 feet to a point on the northerly line of that tract described in Instrument Number 88-22759 of the Official Records of Jackson County, Oregon (being North 00°07'50" East, 339.20 feet and East, 573.57 feet from the Center One-quarter corner of said Section 16), and the terminus of this easement.

**ALSO**, Commencing at the Center One-quarter of said Section 16; thence North 89°57'26" East, along the South line of the Southwest One-quarter of the Northeast One-quarter of said Section 16, 660.00 feet; thence North, along the east line of that tract of land described in Instrument Number 90-28599 of the Official Records of Jackson County, Oregon, 290.45 feet to the **True Point of Beginning**; thence leaving said east tract line, South 65°22'58" East, 349.42 feet; thence South 74°35'01" East, 299.34 feet; thence South 82°58'28" East, 59.46 feet to a point on the East line of

aforesaid Southwest One-quarter of the Northeast One-quarter of said Section 16, and the terminus of this easement. **EXCEPTING THEREFROM** any portion lying within the right of way of a Public Road pursuant to Jackson County Court Decree dated August 18, 1980, Case Number 79-1663-E-2.

The sidelines of said easements described herein are to meet at angle points, and be 10.00 feet each side of the herein and above described centerlines.

Basis of bearings for this description is the west line of the Northeast One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor.

Prepared by:  
Neathamer Surveying, Inc.  
3132 State Street, Suite 110  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382

Date Prepared: September 12, 2007



*Ca. E. Neathamer*

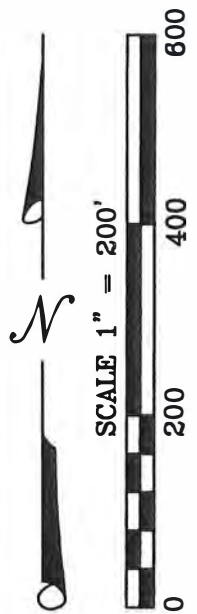
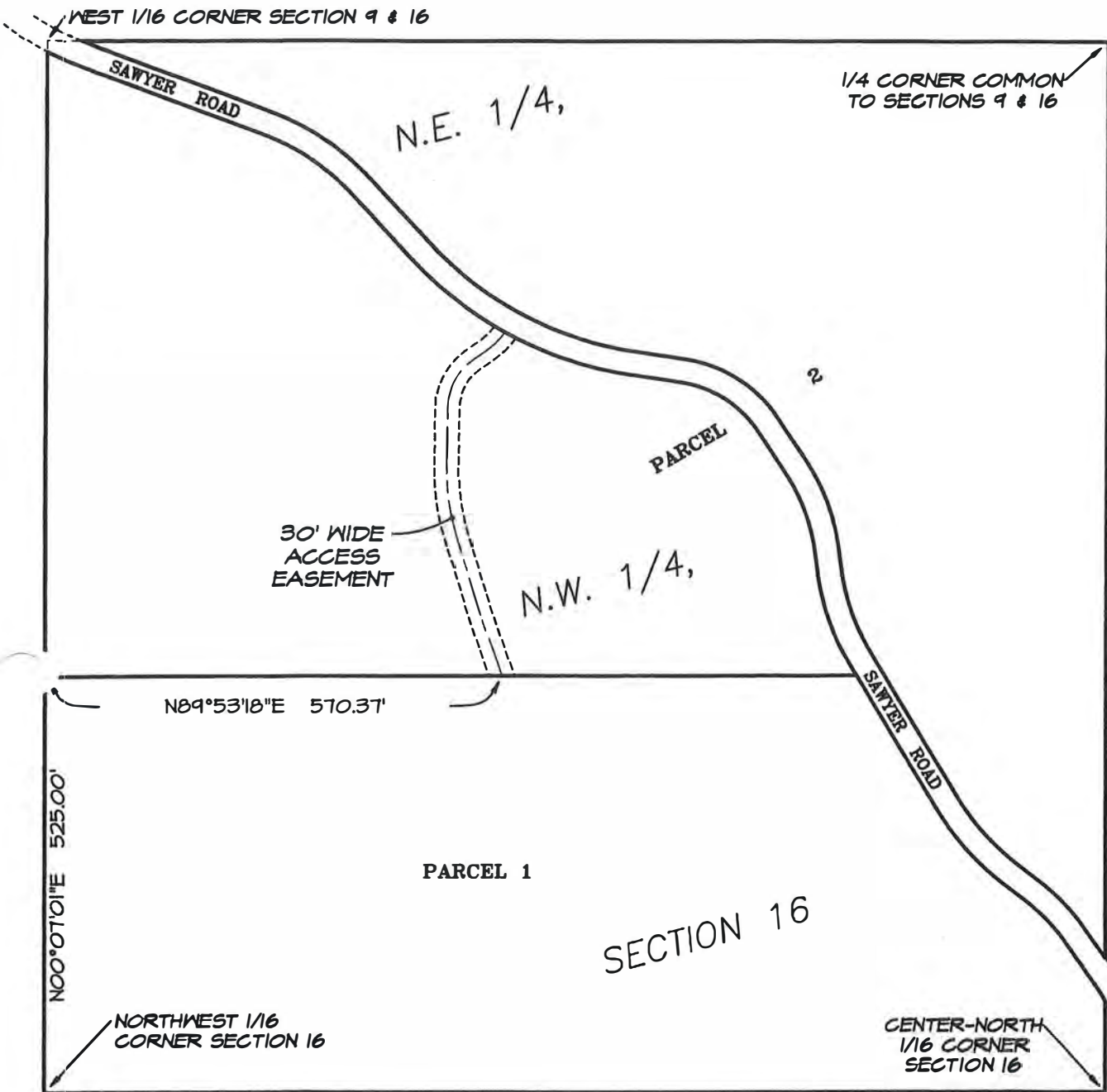


RENEWAL DEC. 31, *2008*

3



EXHIBIT " A "



REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Carl E. Neatham*

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
56545

Renewal Date 12/31/10

*h*





I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Christine Walker - County Clerk

**DECLARATION OF EASEMENT AND MAINTENANCE AGREEMENT  
FOR  
ACCESS**

**THIS DECLARATION** of easement is made this 30<sup>th</sup> day of July, 2010, by PremierWest Bank, an Oregon banking institution, hereinafter called "Declarant", for itself, its heirs, successors, grantees and assigns.

**Recitals**

A. Declarant is the record owner of certain real property located in Jackson County, Oregon and commonly known as Parcel 1 ("Parcel 1") and Parcel 2 ("Parcel 2") of Partition Plat No. P-20-2010 (collectively, "the Property"). A more particular description of the Property is as follows:

**Parcels 1 and 2 of that plat recorded on July 22, 2010, as Partition Plat No. P-20-2010 of the Records of Partition Plats in Jackson County, Oregon.**

B. An existing access road serving Parcel 1 exists on Parcel 2 ("the Access Road"). Declarant desires to declare a nonexclusive cross-access easement over and across the Access Road for ingress and egress for Declarant and its successors, grantees and assigns, as to their respective properties, and to provide for the maintenance of the Access Road as hereinafter provided.

**NOW, THEREFORE**, Declarant hereby declares that the easement for the Access Road herein described shall be subject to the following conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the Property owned by the Declarant as described herein, and which shall be binding upon all parties having any right, title, or interest in the Property or any part thereof, including their heirs, personal representatives, successors, grantees, and assigns, and which shall inure to the benefit of each owner of such properties.

## Agreement

1. Recitals. The above-stated Recitals are incorporated herein and deemed a material part of this Agreement.

2. Grant of Easement for Access. Declarant, as the present owner of the Property, and for its successors in interest, grantees and assigns hereby declares, creates and grants to the owner of Parcel 1 and/or their successors in interest, grantees and assigns a nonexclusive easement for ingress and egress over the Access Road which runs over and across Parcel 2, and for the improvement, maintenance and repair of the Access Road subject to the provisions expressed in this instrument (the "Access Easement"). The Access Easement is nonexclusive among the respective owners of the Property and shall be used for the purposes specified herein only and shall not be obstructed by any owner of the Property for any purpose, without the prior written consent of all owners. The location of the Access Easement is more particularly described in **Exhibit "A"**, attached hereto.

3. Maintenance of Access Road. The owner of Parcel 1, at said owner's sole expense, shall be responsible for the improvement, maintenance and repair of the Access Road. Notwithstanding the foregoing, any damage, excluding normal wear and tear, caused by the owner of Parcel 2 or said owner's tenants, guests, licensees, employees or assignees shall be the responsibility of the owner of Parcel 2.

4. Indemnity. Declarant hereby declares on behalf of each owner accepting a deed to any portion of the Property, and as a condition for such conveyance, that each owner, by accepting a deed to the Property, agrees to defend, indemnify and hold the other owner(s) harmless from and against any and all losses, claims, demands, or other liabilities whatsoever arising out of such owner's own use of the Access Easement and use by such owner's tenants, guests, licensees, agents or employees. Each owner assumes all risks arising out of such owner's own use of the Access Easement, and no other owner shall have any liability as between themselves for any condition existing thereon.

5. Reservation of Rights. Except as to the rights granted herein, each property owner shall have the full use and control of the land it owns.

6. Perpetual Easement. The Access Easement granted herein is perpetual.

7. Easement Runs With The Land. The Access Easement granted herein is deemed appurtenant to the Property described herein and shall run with the land. This Agreement shall



EXHIBIT " A "

A 20.00 foot wide easement being located within a portion of Parcel 2 of a plat recorded July 22, 2010, as Partition Plat No. P-20-2010 of the Records of Partition Plats in Jackson County, Oregon, and filed as Survey Number 20172 in the office of the Jackson County Surveyor, located in the Northeast One-quarter of the Northwest One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon. The centerline of which being more particularly described as follows:

Commencing at the Northwest One-sixteenth corner of Section 16 of said Township and Range, also being the southwest corner of Parcel 1 of said plat; thence North 00°07'01" East, along the west boundary of Parcel 1, also being the west boundary of the Northeast One-quarter of the Northwest quarter of Section 16, 525.00 feet to the corner common to Parcels 1 and 2 of said plat; thence North 89°53'18" East, along the common boundary of said Parcels 1 and 2, 570.37 feet to the **True Point of Beginning**; thence leaving said common boundary, North 19°19'53" West, 80.47 feet; thence North 16°59'48" West, 100.89 feet to the beginning of a tangent curve to the right, having a radius of 300.00 feet and a central angle of 18°00'19" (the long chord of which bears North 07°59'38" West, 93.89 feet); thence along the arc of said curve, 94.28 feet; thence North 01°00'32" East, 75.78 feet to the beginning of tangent curve to the right, having a radius of 75.00 feet and a central angle of 54°24'14" (the long chord of which bears North 28°12'39" East, 68.57 feet); thence along the arc of said curve, 71.21 feet; thence North 55°24'46" East, 14.36 feet to the beginning of a tangent curve to the right, having a radius of 125.00 feet and a central angle of 17°20'28" (the long chord of which bears North 46°44'32" East, 37.69 feet); thence along the arc of said curve, 37.83 feet to a point intersecting the southerly right of way of Sawyer Road, a public road pursuant to a Court Decree dated August 18, 1980, Case Number 79-1663-E-2 of the Circuit Court of the State of Oregon for the County of Jackson, being the terminus of this easement.

The sidelines of this easement are to be 15.00 feet each side of the herein and described centerline, to meet at angle points, to be continuous, beginning at a point on a line common to Parcels 1 and 2 of said plat, and terminating at a point on the southerly right of way of said Sawyer Road.

Basis of bearings for this description is east line of the Northeast One-quarter of the Northwest One-quarter of Section 16, Township 34 South, Range 1 West of the Willamette Meridian, Jackson County, Oregon, per Survey Number 3495, as filed in the office of the Jackson County Surveyor. Bearing along said line is South 00°07'50" West.

**PREPARED BY:**

Neathamer Surveying, Inc.  
3126 State Street, Suite 100  
PO Box 1584  
Medford, OR 97504  
Phone: (541) 732-2869  
Fax: (541) 732-1382

Date Prepared: July 29, 2010



*Caël E. Neathamer*

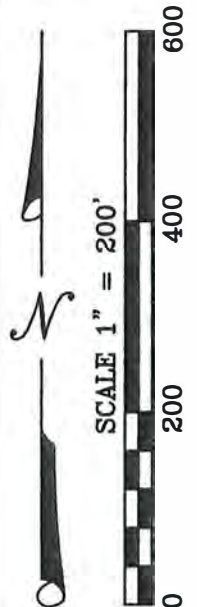
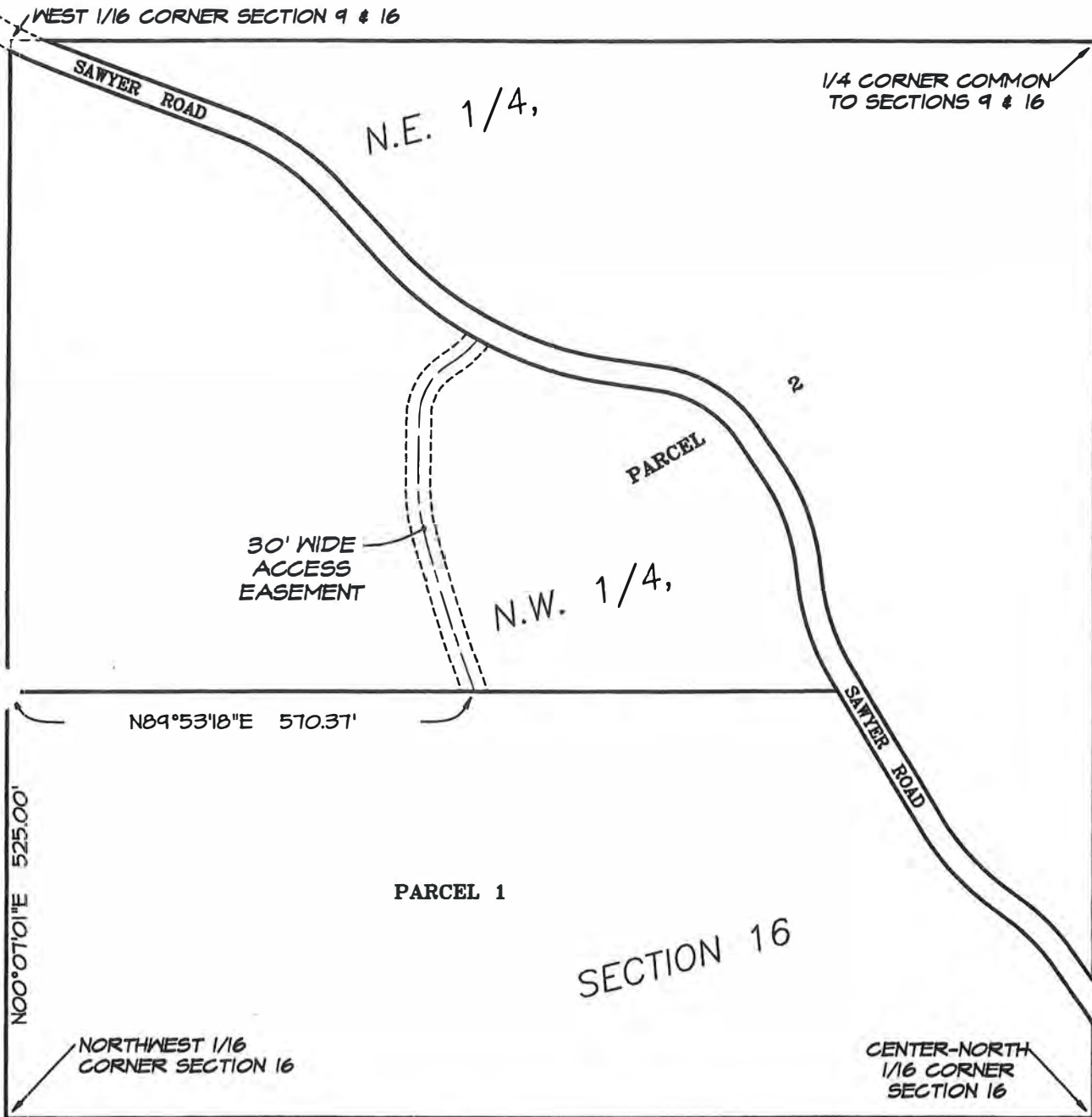


RENEWAL: DEC. 31, 2010

Handwritten mark resembling the number "4" with a checkmark.



EXHIBIT " A "



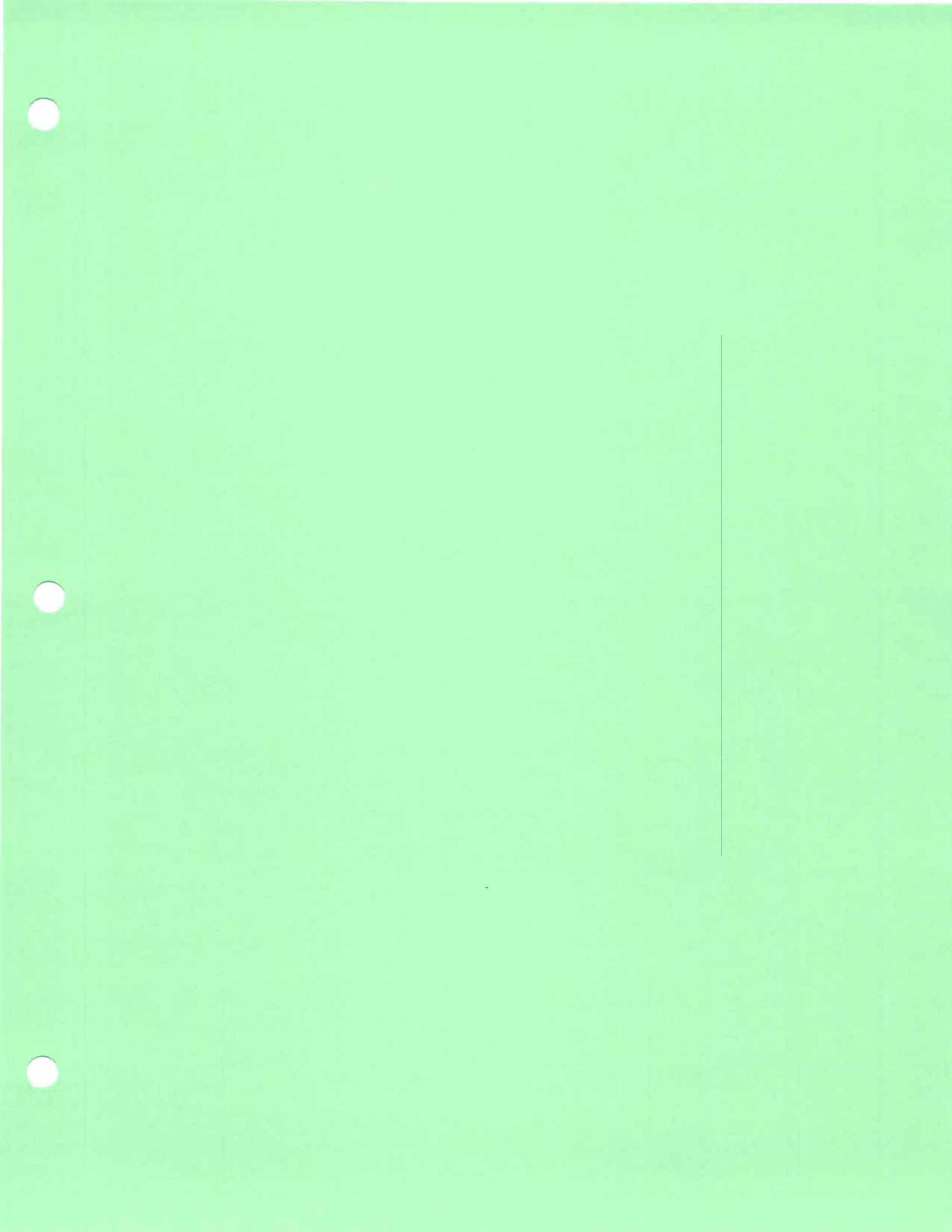
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Carl E. Neatham*

OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
56545

Renewal Date 12/31/10

*h*



### Map Maker Application

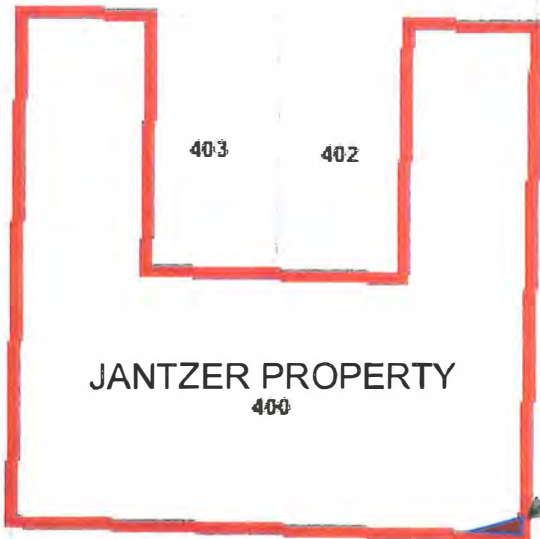
#### Front Counter Legend

- Highlighted Feature
- Tax Lot Outlines
- Tax Lot Numbers

500 503 101  
 505 504 102  
 502 506 300  
 400  
 700 701 800  
 1100  
 702  
 1200

100

600



Easement

Schoolhouse Lane

203

205

203

205

200

201

602

601

400

607

605

200

300

204

604

500

501

SAWYER



**JACKSON COUNTY**  
 Oregon

This map is based on a digital database compiled by Jackson County From a variety of sources. Jackson County cannot accept responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied.



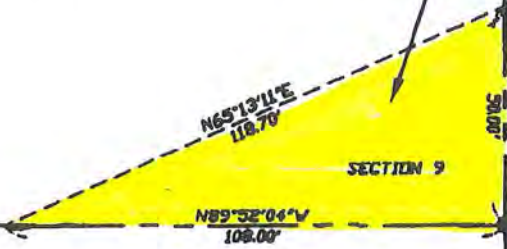
MAP OF EASEMENT  
FROM JASON C. JANTZER, TRUSTEE  
TO SHADY COVE WATERWORKS, INC

34 1W 09  
TAX LOT 400  
JASON C. JANTZER, TRUSTEE  
OF THE CARL M. JANTZER & ANITA J. JANTZER  
REVOCABLE TRUST



SCALE: 1" = 30'  
JANUARY 31, 2006

INGRESS/EGRESS AND UNDERGROUND UTILITY EASEMENT



SCHOOLHOUSE LANE

50'

SECTION 16

1/16 CORNER  
FOUND 1 1/4" IRON PIPE

34 1V 16  
TAX LOT 200  
WALKER STUDY CENTER, INC.

34 1V 16  
TAX LOT 201  
ROGUE CREST APARTMENTS, LLC

SURVEY FOR  
WHITE OAK DEVELOPMENT & INVESTMENTS, LLC  
10 CRATER LAKE AVENUE  
MEDFORD, OREGON 97504

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Stuart M. Osmus*

OREGON  
JULY 16, 1980  
STUART M. OSMUS  
No. 2408  
Expires 12/31/08

TERRASURVEY, INC.  
PROFESSIONAL LAND SURVEYORS

34 FOURTH STREET  
ASHLAND, OREGON 97520  
541-682-6074

5'





I, Kathleen S. Beckett, County Clerk for Jackson County, Oregon,  
certify that the instrument identified herein was recorded in the Clerk  
records.  
Kathleen S. Beckett - County Clerk

Recording Requested by And  
When Recorded Mail to:

Debbie V. Minder, Attorney at Law  
10 Crater Lake Avenue  
Medford, Oregon 97504

**EASEMENT FOR INGRESS/ EGRESS AND WATER LINES**

The undersigned, **JASON C. JANTZER, Trustee of the Carl N. & Anita J. Jantzer Revocable Trust** ("Grantor"), for and in consideration of good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, hereby grants and conveys to **SHADY COVE WATERWORKS, LLC**, an Oregon Limited Liability Company ("Grantee"), and its agents, successors and assigns, a non-exclusive, permanent Right-of-Way and easement for water lines and appurtenances thereto ("Easement") as follows:

1. **Nature and Location of Easement.** See **Exhibit "A"** attached hereto and incorporated herein by this reference for a description of a permanent water line easement for the benefit of Grantee over, upon, across, through and under a portion of Grantor's Real Property for the purposes of installing, laying, constructing, maintaining, inspecting, repairing, removing, replacing, renewing, using and operating water lines, together with all facilities, connectors and appurtenances ("Water Lines"), including the right of ingress and egress for such purposes. **Exhibit "B"** attached hereto and incorporated herein by reference is a description of the Grantor's Real Property, and **Exhibit "C"** is a map depicting the location of the water line easement.
2. **Right of Entry.** Grantee shall have the right, with reasonable notice and without prior institution of any suit or proceeding at law or equity, at all times as may be necessary to enter upon the Grantor's Real Property to install, lay, construct, maintain, inspect, repair, remove, replace, renew, use and operate the Water Lines for the purposes of serving other properties with utility service. Grantee agrees to restore the Grantor's Real Property as nearly as reasonably possible to its condition prior to any material disturbance from construction, operation, maintenance, repair, or replacement of the Water Lines.
3. **Encroachment/Construction Activity.** Grantor shall not undertake, authorize, permit or consent to any construction or excavation including, without limitation, digging, tunneling, or other forms of construction activity within the Easement which might in any fashion unearth, undermine, or damage the Water Lines or endanger the lateral or other support of the Water Lines. Grantor further agrees that no structure or obstruction including, without limitation, fences, rockeries shall be erected over, upon or within the Easement, and no trees, bushes, or other shrubbery shall be planted or maintained within the Easement, provided Grantor shall have full use of the surface of the Grantor's Real Property within the Easement.

4. **Binding Effect/Warranty of Title.** The Easement and the covenants, terms and conditions contained herein are intended to and shall run with the Grantor's Real Property and shall be binding upon Grantee and Grantor and their respective successors, heirs, and assigns. Grantor warrants that Grantor has good title to the Grantor's Real Property and warrants the Grantee title to and quiet enjoyment of the Easement.
5. **Recording.** Upon its execution, the Easement shall be recorded in the Official Records of the Jackson County Clerk, Jackson County, Oregon.
6. **Indemnification.** For purposes of this easement, Grantee shall defend, save, hold harmless and indemnify Grantor against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever arising from, arising out of, or relating to activities of the indemnifying party or its employees, subcontractors, invitees or agents in connection with the water lines and operation of the water lines.
7. **Additional Consideration:** Grantee, as further consideration for Grantor's conveyance of said easement, agrees to provide a water line connection for Grantor within the easement so granted. Grantor or his assigns, understand and agree to pay the standard rates and connection fees as set by Shady Cove Waterworks, LLC at the time of water service installation.
8. **Prevailing Party:** In the event a suit or action is filed concerning this Agreement, the prevailing party shall be awarded their reasonable attorney fees as set by the trial court, or if on appeal, by the appellate court.
9. **Entire Agreement:** The provisions contained in this Easement represent the entire and integrated agreement between Grantor and Grantee and supersedes all prior negotiations, representations or agreements, either written or oral.

EXECUTED this 18 day of May, 2006.

GRANTORS:

  
JASON C. JANTZER, TRUSTEE

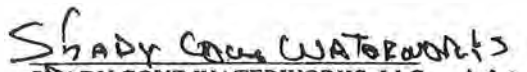

  
SHADY COVE WATERWORKS, LLC  
By:   
Ron L. Boehm, Manager

EXHIBIT 'A'

INGRESS/EGRESS AND UNDERGROUND UTILITY EASEMENT  
ACROSS JANTZER PROPERTY  
34 1W 09, TAX LOT 400

A tract of land, being a portion of that certain property described in Document No. 80-18476, Official Records, Jackson County, Oregon, and being more particularly described as follows:

Beginning at the southeast corner of the Southwest Quarter of the Southeast Quarter of Section 9 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence along the south line of said Southwest Quarter, North 89° 52' 04" West, 108.00 feet; thence North 65° 13' 11" East, 118.70 feet to the east line of said Southwest Quarter, thence along said east line, South 0° 15' 51" East, 50.00 feet to the Point of Beginning.

December 16, 2005



3-

EXHIBIT "B"

The Southwest Quarter of the Southeast Quarter of Section 9, in Township 34, South, Range 1 West of the Willamette Meridian in Jackson County, Oregon.

SAVE AND EXCEPT the following: The West Half of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter AND the East Half of the Northwest Quarter of the Southwest Quarter of the Southeast Quarter all in Section 9, Township 34, South, Range 1 West of the Willamette Meridian in Jackson County, Oregon.

Map No. 341W09, Tax Lot 400, Account No. 1-022226-9, Code 9-02

4-



MAP OF EASEMENT  
FROM JASON C. JANTZER, TRUSTEE  
TO SHADY COVE WATERWORKS, INC

34 1W 09  
TAX LOT 400  
JASON C. JANTZER, TRUSTEE  
OF THE CARL N. JANTZER & ANITA J. JANTZER  
REVOCABLE TRUST



SCALE: 1" = 30'  
JANUARY 31, 2006

INGRESS/EGRESS AND UNDERGROUND UTILITY EASEMENT

N65°13'11"E  
118.70'

SECTION 9

N89°52'04"W  
108.00'

SECTION 16

34 1W 16  
TAX LOT 200  
WALKER STUDY CENTER, INC.

SCHOOLHOUSE LANE

50'

1/16 CORNER  
FOUND 1 1/4" IRON PIPE

34 1W 16  
TAX LOT 201  
ROGUE CREST APARTMENTS, LLC

SURVEY FOR:  
WHITE OAK DEVELOPMENT & INVESTMENTS, LLC  
10 CRATER LAKE AVENUE  
MEDFORD, OREGON 97504

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Stuart M. Osmus*

OREGON  
JULY 25, 1980  
STUART M. OSMUS  
No. 2408

Expire: 7/31/08

TERRASURVEY, INC.  
PROFESSIONAL LAND SURVEYORS

214 FOURTH STREET  
ASHLAND OREGON 97501  
CALL 862-6474  
www.Terrasurvey.com

5'

STATE OF OREGON     )  
                                  ) ss  
COUNTY OF JACKSON )

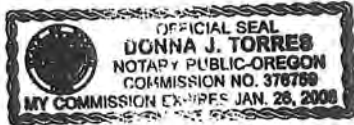
This instrument was acknowledged before me on May 18, 2006, By  
Jason Jantzer



Laura Frink  
Notary Public for Oregon  
My commission Expires: APR 3, 2010

STATE OF OREGON     )  
                                  ) ss  
COUNTY OF JACKSON )

This instrument was acknowledged before me on June 13, 2006, By  
Ren J Boehm, Manager for Shady Cove Waterworks, LLC



Donna J Torres  
Notary Public for Oregon  
My commission Expires: 1-26-08

613



Map Maker Application

Front Counter Legend

Highlighted Feature

Tax Lot Outlines

Tax Lot Numbers

300

Schoolhouse Lane

2404 2403 2400

1500 1401

100

1600 1300

1700 1701

1801

1802

201

3701 3700

4100

101

3900 WILLIAMS

5600

5700

3202 3203 3205

3206

OAK RIDGE

3235

3207

3234

WHITE OAK

3209

3233

3210

3232

3211

3231

3212

3230

3236

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3229

3214

3228

3215

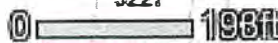
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3216

300

204

400

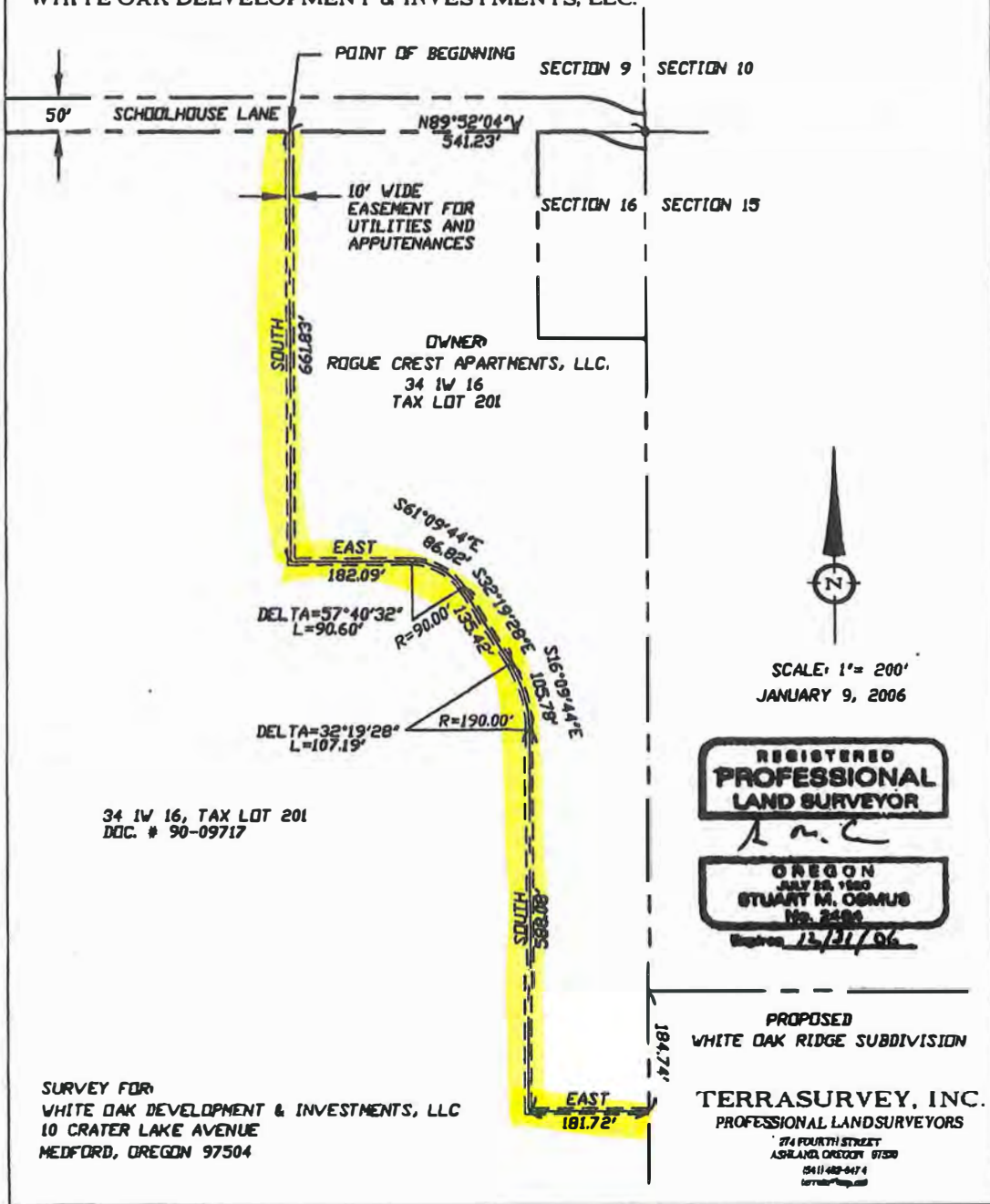


JACKSON COUNTY Oregon

This map is based on a digital database compiled by Jackson County From a variety of sources. Jackson County cannot accept responsibility for errors, omissions, or positional accuracy. There are no warranties, expressed or implied.



**MAP OF EASEMENT FOR UTILITIES AND APPURTENANCES  
FROM ROGUE CREST APARTMENTS, LLC TO  
WHITE OAK DELVELOPMENT & INVESTMENTS, LLC.**



34 1W 16, TAX LOT 201  
DOC. # 90-09717

SURVEY FOR  
WHITE OAK DEVELOPMENT & INVESTMENTS, LLC  
10 CRATER LAKE AVENUE  
MEDFORD, OREGON 97504



SCALE: 1" = 200'  
JANUARY 9, 2006

**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

*Stuart M. Osmus*  
**OREGON  
JULY 22, 1980  
STUART M. OSMUS  
No. 2488**  
Expires 12/31/06

PROPOSED  
WHITE OAK RIDGE SUBDIVISION

**TERRASURVEY, INC.**  
PROFESSIONAL LANDSURVEYORS  
274 FOURTH STREET  
ASHLAND, OREGON 97530  
541-482-6474  
t@terra-survey.com

3



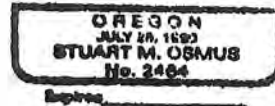
EXHIBIT 'A'

UTILITY EASEMENT FROM ROGUE CREST APARTMENTS, LLC.  
TO SHADY COVE WATERWORKS, LLC.  
34 1W 16, TAX LOT 201

A strip of land, being 10.00 feet in width and lying 5.00 feet on each side of the following described centerline:

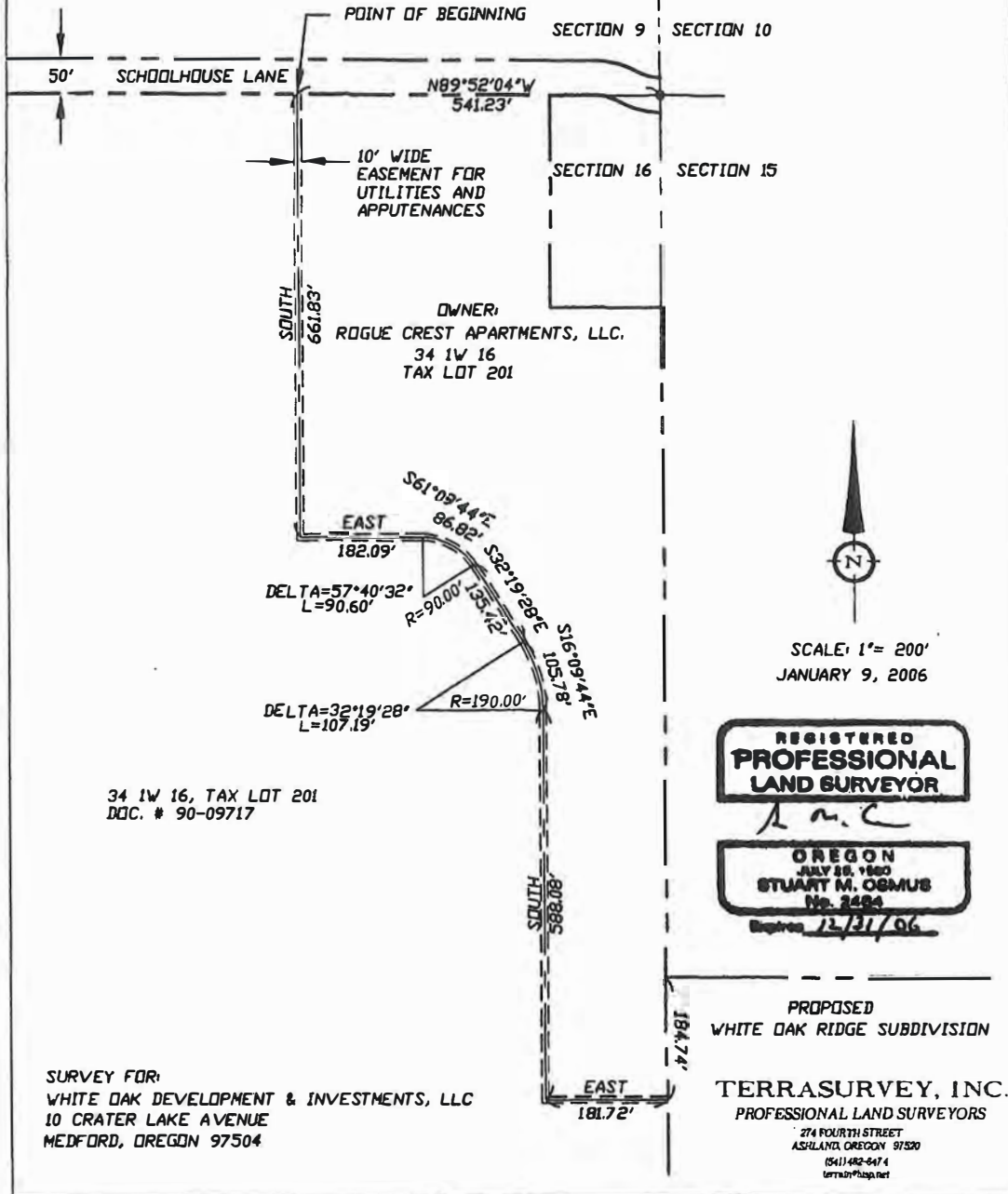
Commencing at the corner common to Sections 9, 10, 15 and 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence along the line between said Sections 9 and 16, North 89° 52' 04" West, 541.23 feet to the **Point of Beginning**; thence South, 661.83 feet; thence East, 182.09 feet; thence 90.60 feet along the arc of a curve to the right, having a radius of 90.00 feet, a central angle of 57° 40' 32", and a long chord which bears South 61° 09' 44" East, 86.82 feet; thence South 32° 19' 28" East, 135.42 feet; thence 107.19 feet along the arc of a curve to the right, having a radius of 190.00 feet, a central angle of 32° 19' 28" and a long chord which bears South 16° 09' 44" East, 105.78 feet; thence South, 588.08 feet; thence East 181.72 feet to the East line of that parcel described in Document No.90-09717, Official Records, Jackson County, Oregon, being the Point of Termination.

January 25, 2006



2

MAP OF EASEMENT FOR UTILITIES AND APPURTENANCES  
FROM ROGUE CREST APARTMENTS, LLC. TO  
WHITE OAK DELVELOPMENT & INVESTMENTS, LLC.



3





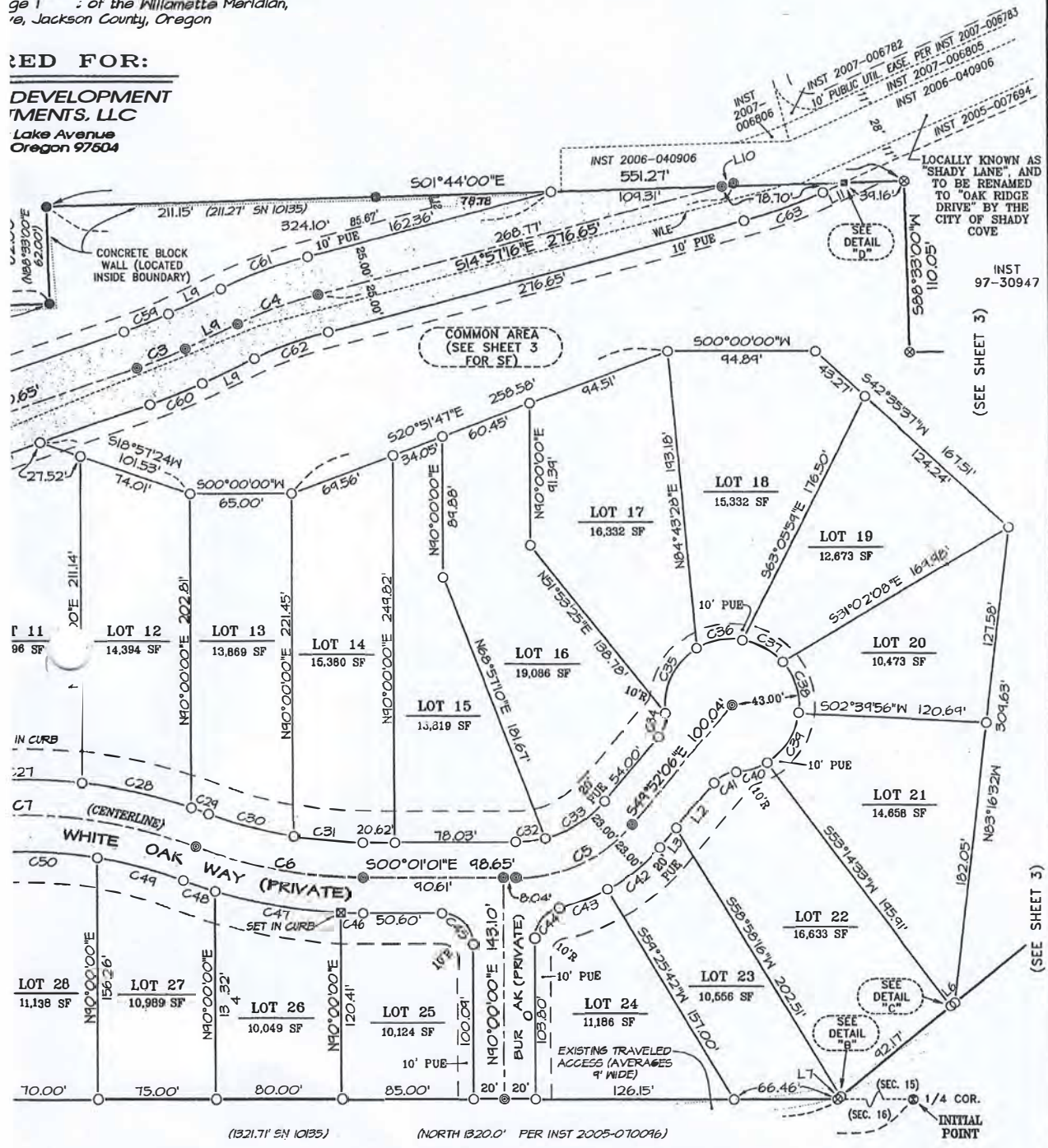




# OAK RIDGE

West 1/4 of the Southwest One-quarters of the Millamette Meridian, Jackson County, Oregon

PREPARED FOR:  
**DEVELOPMENT**  
**PROJECTS, LLC**  
 Lake Avenue  
 Oregon 97604



I hereby certify that this is an exact copy of the original.

**Carl E. Neathamer**  
 Surveyor

**REGISTERED PROFESSIONAL LAND SURVEYOR**

**Carl E. Neathamer**

**OREGON**  
 JULY 9, 2001  
**CAEL E. NEATHAMER**  
 56545

Renewal Date 12/31/08

### BASIS OF BEARING:

Survey Number 10135, as filed in the office of the Jackson County Surveyor. Basis applied to the east line of Section 15 as depicted hereon.

**PREPARED BY:** Neathamer Surveying, Inc.  
 3132 State St., Suite 110  
 P.O. Box 1584  
 Medford, Oregon 97501  
 Phone (541) 732-2869  
 FAX (541) 732-1382

**PLOT DATE:** February 9, 2007      **PROJECT NUMBER:** 06055

**\*\* RECEIVED \*\***  
 DATE 2-13-07 BY AB  
 This survey consists of:  
9 sheet(s) Map  
0 page(s) Narrative  
**JACKSON COUNTY SURVEYOR**

Plat & Const. pro

Sheet 2 of 3 © GEN

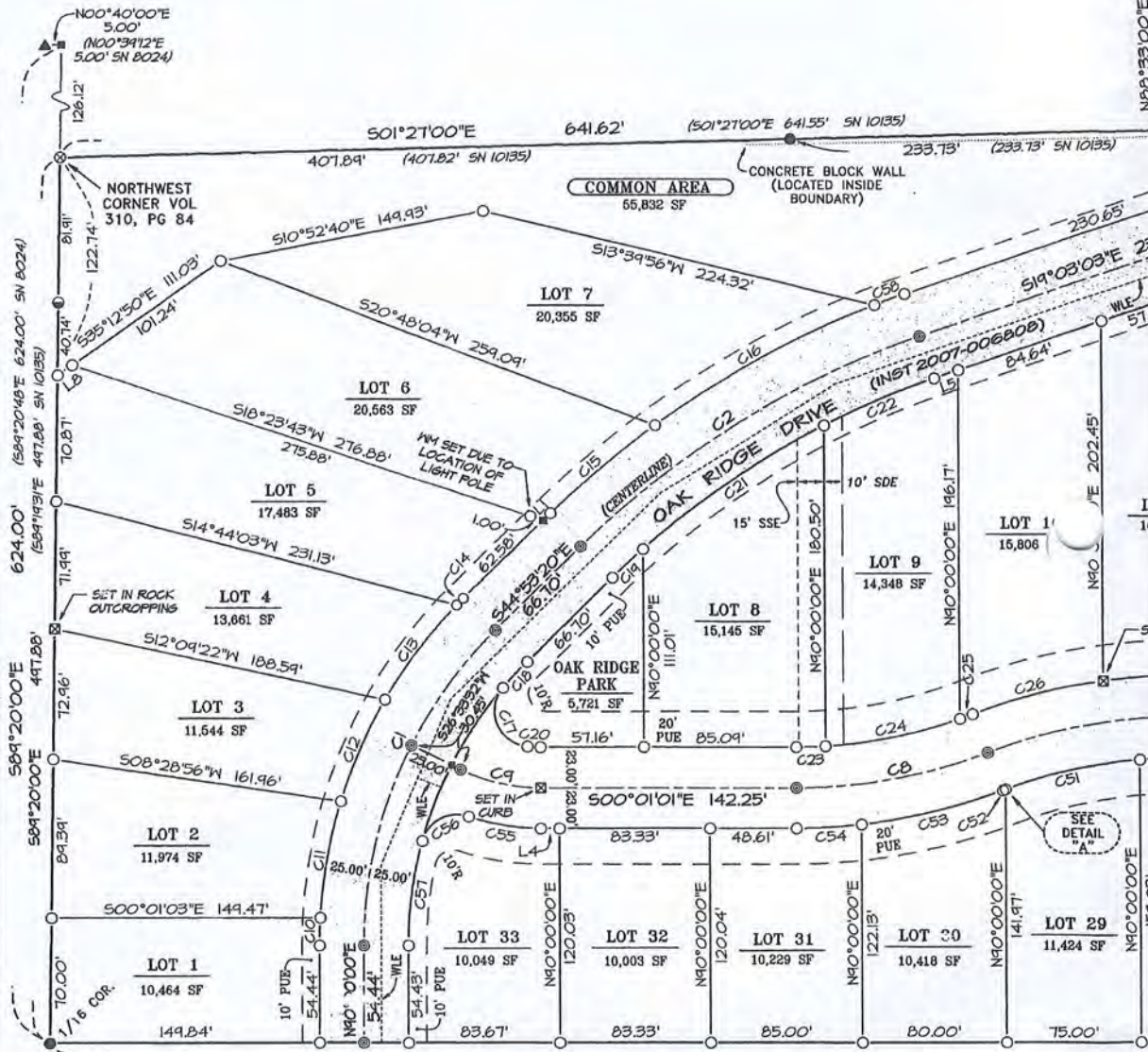
19512



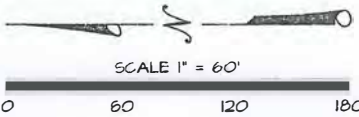
A subdivision located in the South, R. 10th, S. 10th, E. 10th, in the City of Shady Grove, Montgomery County, Maryland.

PREPARED BY

WHITE OAK & INVESTMENT COMPANY  
10 Crankford Road  
Medford, NJ 08055



BASIS OF BEARINGS: N00°00'41"W (SN 10135) 1321.82'



SEE SHEET 3 FOR LEGEND, NOTES, LINE AND CURVE TABLES, AND DETAILS



# WINDY RIDGE

Southwest One-quarters of  
 Township 34 South, Range 1 West of the  
 Willamette Meridian,  
 Jackson County, Oregon

FOR:

**DEVELOPMENT  
 SITS, LLC**  
 Avenue  
 97504

TABLE OF CONTENTS	
Sheet	Description
1	Title Page (this sheet)
2	Plat (Majority of plat; Northerly portion)
3	Plat (Rogue River Drive; Southerly portion, Legend, Line & Curve Tables and Details)

### APPROVALS:

I certify that, pursuant to the authority granted in the City of Shady Cove this  
 plat is hereby approved by Administrative Review. **54804-03**

Whitla McCall 2/12/07  
 Attest by the City Planning Dept. Date

Examined and approved this 12<sup>th</sup> day of February, 2007.

Roger R. Roberts  
 Jackson County Surveyor

All taxes, fees, assessments, or other charges as required by O.R.S. 92.095  
 have been paid as of 2-13, 2007.

J. M. [Signature]  
 Tax Collector Deputy

Examined and approved as required by O.R.S. 92.100 this 13<sup>th</sup> day of  
February, 2007.

Dan Russ Amanda Kirkpatrick, deputy  
 Assessor Deputy

### RECORDING

FILED FOR RECORD THIS THE 13<sup>th</sup> DAY OF FEBRUARY, 2007, AT 11:28 O'CLOCK A.M.  
 AND RECORDED IN VOLUME 33 OF PLATS AT PAGE 11 OF THE RECORDS OF JACKSON  
 COUNTY, OREGON.

KATHLEEN S. BECKETT Sonya S. Morgan  
 County Clerk Deputy

Approved for Recording: [Signature] FEB 13 2007  
 County Commissioner/Administrator Date

I hereby certify that this is  
 an exact copy of the original.  
Carl E. Neathamer  
 Surveyor

**\*\* RECEIVED \*\***  
 DATE 2-14-07 BY BB  
 This survey consists of:  
3 sheet(s) Map  
0 page(s) Narrative  
**JACKSON COUNTY  
 SURVEYOR**

**REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR**  
Carl E. Neathamer  
**OREGON  
 JULY 9, 2001  
 CAEL E. NEATHAMER  
 56545**  
 Renewal Date 12/31/08

**PREPARED BY: Neathamer Surveying, Inc.**  
 3132 State St., Suite 110  
 P.O. Box 1584  
 Medford, Oregon 97501  
 Phone (541) 732-2369  
 FAX (541) 732-1362  
 PLOT DATE: February 9, 2007 PROJECT NUMBER: 06055  
 Sheet 1 of 3 © CEN

WHITE OAK

A subdivision located in the North Section 15, Township 34 South, Range 12 East, in the City of Shady Cove, Oregon.

PREPARE

WHITE OAK DEVELOPMENT & INVESTMENTS, LLC  
10 Crater Lake Road  
Medford, Ore.

DECLARATION

KNOW ALL PERSONS BY THESE PRESENTS, that WHITE OAK DEVELOPMENT and INVESTMENTS, LLC an Oregon limited liability company, hereinafter referred to as Declarant, is the fee title owner of the real property as depicted hereon, being more particularly described in the "SURVEYOR'S CERTIFICATE" herewith. Declarant has caused this tract of land to be surveyed and platted into, lots, easements and Common Areas, as depicted hereon, and the number of each lot and the course and length of all lines are plainly set forth, and this plat is a correct representation of the subdivision, and hereby designates this development as "WHITE OAK RIDGE". Declarant hereby dedicates to the City of Shady Cove, for public use, the Public Sewer, Storm and Utility easements, as depicted hereon. Said Public Utility Easements along the private streets of White Oak Way and Bur Oak, shall allow for curb lines, storm drain inlet structures, and any other street improvements and their appurtenances to be located within them. Declarant hereby creates the following: those areas depicted hereon as Common Area, and a Oak Ridge Park, for the use and benefit of Lots 1 through 34, their successors, heirs and assigns; and those private streets depicted hereon as White Oak Way and Bur Oak, for the use and benefit of Lots 8 through 34, their successors, heirs and assigns. Said private streets shall also allow for domestic water line, services and appurtenances owned and operated by Shady Cove Waterworks, LLC, their heirs and assigns, and the public and private utility and service lines (including but not limited to public electric, telephone, communication lines, cable television, sanitary sewer, and storm drain/sewer, their appurtenances and facilities), the right to access to install, maintain and repair said utilities, their facilities and appurtenances. WHITE OAK RIDGE shall be subject to those Covenants, Conditions and Restrictions as contained in Instrument Number 2007-006809 of the Official Records of Jackson County, Oregon.

*[Handwritten signature]*

R.J. Boehm, Manager  
WHITE OAK DEVELOPMENT  
& INVESTMENTS, LLC.

STATE OF OREGON }  
County of Jackson } SS

Who appeared the above named R.J. Boehm, known to me as the manager of WHITE OAK DEVELOPMENT and INVESTMENTS, LLC, an Oregon limited liability company, and acknowledged the foregoing instrument, pursuant to authorization of the members of said company, to be their act and deed.

Witness my hand and seal this 10<sup>th</sup> day of February, 2007.

Before me: *[Handwritten signature]*

*[Handwritten signature]*  
NOTARY PUBLIC  
COMMISSION NO.: 404472  
MY COMMISSION EXPIRES: APR 3 2010

SURVEYOR'S CERTIFICATE

I, Carl E. Neathamer, a Registered Professional Surveyor of Oregon, do hereby certify that I have properly surveyed and prepared this plat in accordance with the laws of Oregon, and that this plat is a correct representation of the boundary as described in the accompanying description of the boundary.

All that real property being as described in the Official Records of Jackson County, Oregon, Southwest One-quarters of Section 15, Township 34 South, Range 12 East, in the City of Shady Cove, Oregon, more particularly described as follows:

Beginning at the One-quarter corner common to Section 15 and Range, being the INITIAL POINT 1321.82 feet (Record: North 1320 feet), common to said Sections 15 and 16; thence (Record: East 497.88 feet), to the North line of the Deed Records of Jackson County, Oregon, 641.62 feet (Record: South 1°29' East, 642.00' (Record: North 88°31' East, 62.00' 551.27 feet (Record: South 1°46' East, 551.05 feet (Record: South 88°21' West, 1161.67 feet (Record: South 1° East, 163 way of the county road (Rogue River Drive) 79°37'55" West, 494.60 feet (Record: South 90° less), to a point intersecting with the west line of the County Public Works notes, Survey Number 100°00'41" West, 128.25 feet (Record: North 100°00'41" West, 12535, and 12535, all as filed in the office of the County Surveyor; and, Jackson County Public Works field notes (circa 1967), for Rogue River Drive, being common with the Point of Beginning.

Carl E. Neathamer  
Surveyor

SURVEY NARRATIVE TO COMPLY WITH PARAGRAPH 209.250, OREGON REVISED STATUTES

PURPOSE: Perform a boundary survey and prepare a Final Plat pursuant to Client's instructions and as approved by the City of Shady Cove Planning Commission.

PROCEDURE: Utilizing a Trimble 5600 and S-6 robotic instrument, and a Trimble 5602 data collector with Trimble Survey Controller, all found monuments were tied via closed traverses or by redundant ties. Records used were: Document Number 2005-010096 Official Records of Jackson County, Oregon; Surveys Numbered 3464, 6833, 8024, 10185, and 12535, all as filed in the office of the County Surveyor; and, Jackson County Public Works field notes (circa 1967), for Rogue River Drive.

Established Basis of Bearings per Survey Number 10185, and applied to the west line of Section 15, as depicted hereon.

Utilizing said Document Number 2005-010096 and Surveys Numbered 8024 and 10185, and the found monuments thereof, established the westerly, northerly and easterly exterior boundaries of the subject tract hereof. Utilizing said County Public Works notes, Surveys Numbered 12535 and 14574, and the found monuments thereof, established the northerly and southerly boundaries of the subject tract hereof.

Utilizing the established exterior boundaries, I computed the street centerlines, right-of-way and interior lot corners. Instrument Number 2006808 of the Official Records of Jackson County, Oregon, was utilized to locate the centerline of Ridge Drive, a public street.

Set all exterior boundary and lot corners as depicted on the plat hereof. The instrument for this subdivision was established on February 16, 2006.



# K RIDGE

at the southwest One-quarters of  
1/4 Sec. of the Willamette Meridian,  
Jackson County, Oregon

**FOR:**  
**DEVELOPMENT**  
**TS, LLC**  
venue  
97504

meter Iron pin, 24 inches in length, with an orange  
HAMER SURVEYING".

meter Iron pin, 30 inches in length, with an orange  
HAMER SURVEYING".

meter Iron pin, 30 inches in length, with an aluminum  
SURVEYING".

r shell casing, lead, tack and brass washer marked

diameter Iron pin, with plastic cap marked "R"  
24.

diameter Iron pin with plastic cap marked "MOFFIT"  
, as noted hereon.

diameter Iron pin with plastic cap marked "KAISER"

asphalt per Jackson County Public Works P-Line

meter brass cap marking the east quarter corner

ion.

in as noted hereon.

number the office of the Jackson County Surveyor.

orded by number of the Official Records of Jackson

sement being created hereon (refer to Declaration).

Sewer Easement being created hereon (refer to Declaration).

rain Easement being created hereon (refer to Declaration).

line Easement per NST. 2007-006807.

which side from the boundary line that the centerline of

an existing fence.

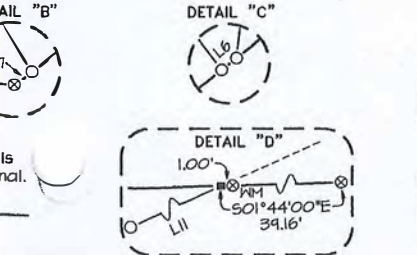
Following matters of record as listed on the supplied by AmeriTitle:

26 and Volume 340, Page 126 of the Deed Records of Jackson  
County in their described location, and not able to locate any evi-  
dence of the subject tracts herein.

refer instrument Number 79-16116 of the Official Records of Jackson  
County and not able to locate physical evidence to verify

provisions thereof, recorded May 4, 2006 in instrument Number  
79-16116 of Jackson County, Oregon.

1 existing Oak tree. 5.00 foot Witness Monuments set along  
34 to reference said corner position.



**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

CAEL E. NEATHAMER  
OREGON  
JULY 8, 2001  
CAEL E. NEATHAMER  
56545  
Renewal Date 12/31/08

**\*\* RECEIVED \*\***  
DATE 2-15-07 BY [Signature]  
This survey consists of:  
3 sheet(s) Map  
0 page(s) Narrative  
JACKSON COUNTY  
SURVEYOR

## CURVE TABLE

CURVE #	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C1	45°06'40"	250.00'	196.83'	S67°26'40"E	191.74'
C2	25°50'17"	500.00'	225.48'	S31°58'11"E	223.57'
C3	6°22'47"	300.00'	33.40'	S22°14'26"E	33.39'
C4	10°28'34"	300.00'	54.85'	S20°11'32"E	54.78'
C5	44°51'04"	41.00'	84.40'	S24°56'34"E	81.76'
C6	21°02'16"	291.00'	109.05'	S10°30'06"W	108.44'
C7	42°04'31"	303.00'	222.51'	S00°01'01"E	217.54'
C8	21°02'16"	291.00'	109.05'	S10°32'09"E	108.44'
C9	26°34'33"	99.00'	45.92'	S13°16'15"W	45.51'
C10	03°14'45"	275.00'	15.58'	S88°22'37"E	15.58'
C11	13°53'22"	275.00'	66.66'	S79°48'34"E	66.50'
C12	13°01'25"	275.00'	62.51'	S66°21'10"E	62.37'
C13	13°51'17"	275.00'	66.50'	S52°54'49"E	66.34'
C14	01°05'51"	275.00'	5.27'	S45°26'15"E	5.27'
C15	08°31'42"	525.00'	78.15'	S40°37'29"E	78.07'
C16	15°20'54"	525.00'	140.64'	S28°41'10"E	140.22'
C17	124°36'52"	20.00'	43.50'	N67°43'35"E	35.42'
C18	05°04'39"	225.00'	19.94'	S47°25'39"E	19.94'
C19	02°50'00"	475.00'	23.49'	S43°28'20"E	23.49'
C20	05°26'10"	76.00'	7.21'	N02°42'04"E	7.21'
C21	14°54'51"	475.00'	123.64'	S34°35'55"E	123.29'
C22	08°05'27"	475.00'	67.07'	S23°05'46"E	67.02'
C23	03°25'52"	274.00'	16.41'	N01°43'58"W	16.41'
C24	16°03'20"	274.00'	76.78'	N11°28'34"W	76.53'
C25	01°33'03"	274.00'	7.42'	N20°16'45"W	7.42'
C26	13°17'04"	326.00'	75.59'	N14°24'45"W	75.42'
C27	14°05'49"	326.00'	80.21'	N00°43'18"W	80.01'
C28	12°38'03"	326.00'	71.89'	N12°38'37"E	71.74'
C29	02°03'35"	326.00'	11.72'	N19°59'27"E	11.72'
C30	11°43'00"	274.00'	56.03'	N15°09'44"W	55.93'
C31	09°19'16"	274.00'	44.58'	N04°38'37"E	44.53'
C32	14°53'59"	74.00'	19.24'	N07°28'01"W	19.19'
C33	34°57'05"	74.00'	45.14'	N32°23'33"W	44.44'
C34	46°57'27"	20.00'	16.39'	N73°20'49"W	15.94'
C35	65°37'35"	43.00'	49.25'	N64°00'45"W	46.60'
C36	40°21'49"	43.00'	30.29'	N11°01'04"W	29.67'
C37	39°58'26"	43.00'	30.00'	N29°09'04"E	29.40'
C38	47°58'07"	43.00'	36.00'	N73°07'20"E	34.96'
C39	51°57'57"	43.00'	39.00'	S56°54'38"E	37.68'
C40	28°01'01"	43.00'	21.03'	S16°55'09"E	20.82'
C41	46°57'27"	20.00'	16.39'	S26°23'22"E	15.94'
C42	20°48'34"	120.00'	43.58'	S39°27'48"E	43.34'
C43	15°50'58"	120.00'	33.20'	S21°08'02"E	33.09'
C44	76°47'27"	20.00'	26.81'	S51°36'17"E	24.84'
C45	90°01'01"	20.00'	31.42'	S44°59'29"W	28.29'
C46	02°34'41"	320.00'	14.40'	S01°16'14"W	14.40'
C47	14°34'39"	320.00'	81.42'	S09°50'59"W	81.20'
C48	03°52'56"	320.00'	21.68'	S19°04'46"W	21.68'
C49	11°34'50"	280.00'	56.59'	S15°13'49"W	56.50'
C50	14°22'22"	280.00'	70.24'	S02°15'13"W	70.05'
C51	15°47'23"	280.00'	77.16'	S12°44'39"E	76.92'
C52	00°19'56"	280.00'	1.62'	S20°53'19"E	1.62'
C53	14°30'32"	320.00'	81.03'	S13°48'01"E	80.82'
C54	06°31'44"	320.00'	36.46'	S03°16'53"E	36.44'
C55	19°01'47"	122.00'	40.52'	S09°29'52"W	40.33'
C56	43°55'31"	20.00'	32.79'	S27°57'00"E	29.24'
C57	15°05'15"	225.00'	59.25'	S82°27'23"E	59.08'
C58	01°57'40"	525.00'	17.97'	S20°01'53"E	17.97'
C59	06°22'47"	275.00'	30.62'	S22°14'26"E	30.60'
C60	06°22'47"	325.00'	36.19'	S22°14'26"E	36.17'
C61	10°28'34"	325.00'	59.42'	S20°11'32"E	59.34'
C62	10°28'34"	275.00'	50.28'	S20°11'32"E	50.21'
C63	09°33'44"	325.00'	54.24'	S19°44'08"E	54.18'

## LINE TABLE

LINE #	BEARING	DISTANCE
L1	S44°53'02"E	4.12'
L2	N49°52'06"W	37.58'
L3	N49°52'06"W	16.42'
L4	S00°01'01"E	10.31'
L5	S19°03'03"E	14.13'
L6	N89°21'27"W	3.33'
L7	N89°21'27"W	2.73'
L8	S35°12'50"E	9.79'
L9	S25°25'49"E	37.12'
L10	S14°57'16"E	7.88'
L11	S24°31'00"E	14.95'
L12	N75°02'44"E	8.02'

PREPARED BY: Neathamer Surveying, Inc.  
3132 State St., Suite 110  
P.O. Box 1584  
Medford, Oregon 97501  
Phone (541) 732-2869  
FAX (541) 732-1382

PLOT DATE: February 9, 2007 PROJECT NUMBER: 06055

# WHITE OAK

A subdivision located in the Northwest  
 Section 15, Township 34 North, Range 12 East  
 in the City of Shady Cove

## PREPARED BY

**WHITE OAK DEVELOPMENT  
 & INVESTMENT**  
 10 Crater Lake  
 Medford, Oregon

### LEGEND:

- O Indicates a set 5/8 inch plastic cap marked "NEA"
- ⊗ Indicates a set 5/8 inch plastic cap marked "NEA"
- ⊙ Indicates a set 5/8 inch plastic cap marked "NEATHAMER SURVEYING"
- ⊠ Indicates a set 0.38-inch calligraphic cap marked "NEATHAMER SURVEYING"
- ▲ Indicates a found 5/8 inch plastic cap marked "ROBERTS 1656", per SN 10135
- Indicates a found 5/8 inch plastic cap marked "PLS 944", per SN 10135
- ⊖ Indicates a found 5/8 inch plastic cap marked "RLS 803", per SN 10334
- △ Indicates a found spike in Survey Notes Circa 1967
- ⊕ Indicates a found 3 inch of section 15.
- Indicates a computed point
- ( ) Indicates record information
- WM Indicates a well
- SN Indicates a survey note
- INST Indicates an instrument number
- PUE Indicates a Public Utility Easement
- SSE Indicates a Public Sanitary Easement
- SDE Indicates a Public Storm Drainage Easement
- WLE Indicates an existing water line
- 2.9' FNC Indicates the distance a fence line is located.
- Indicates the centerline of a road

### NOTES:

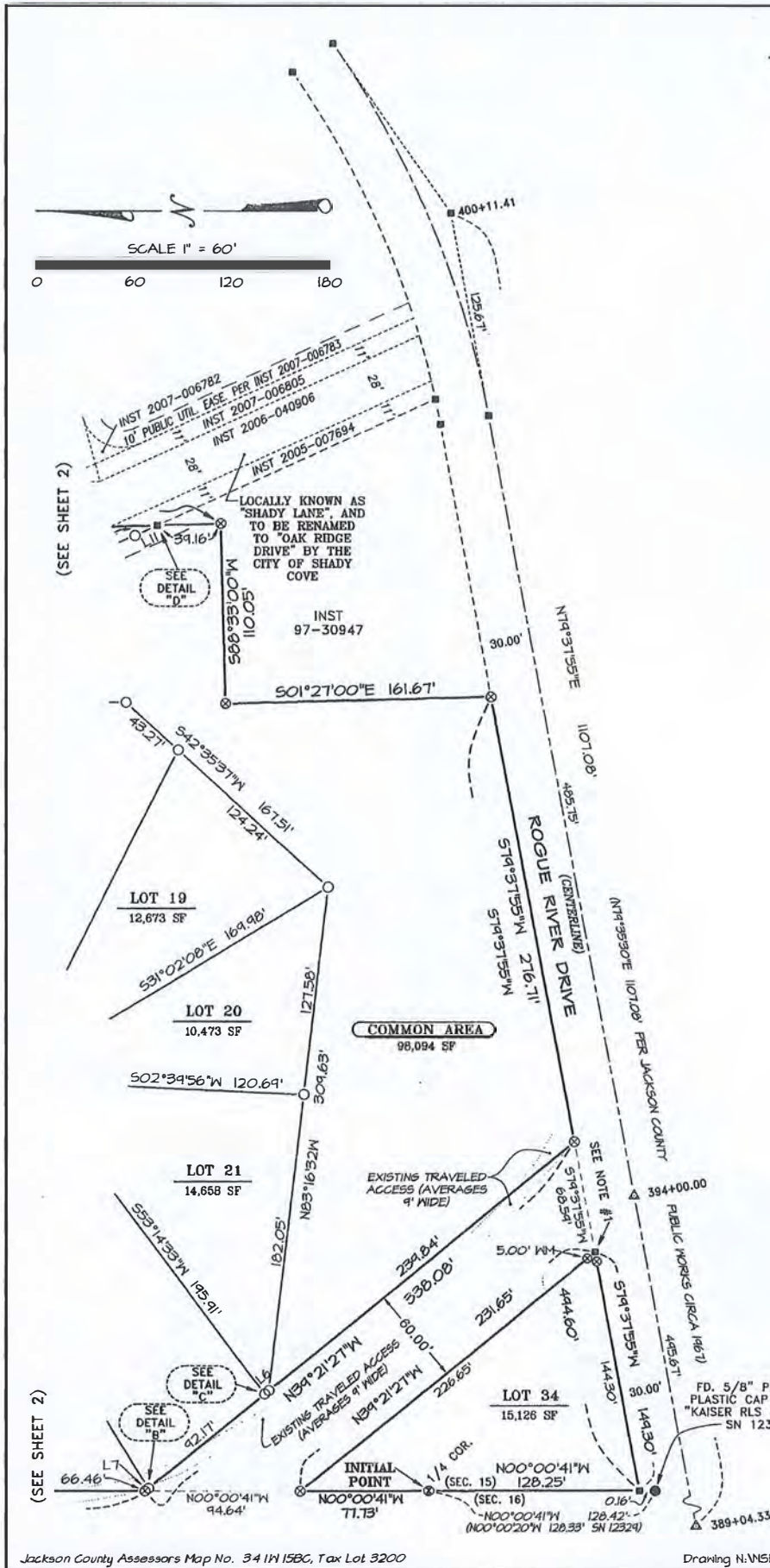
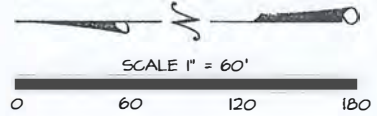
- WHITE OAK RIDGE, is subject to the following:
- A) Easement per Volume 188, Page 10, Jackson County, Oregon, general, not specific, of them within the boundary.
  - B) 12-foot wide Sewerline easement in Jackson County, Oregon; the location of which is shown on its location.
  - C) Agreement, including the terms of the Official Record 2006-023354 of the Official Record.

NOTE #1: Corner position fell within southerly and easterly lines of L...

### DETAIL "A"



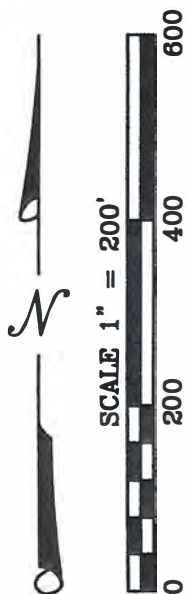
I hereby certify that this is an exact and correct copy of the original.  
 Carl E. Neathamer  
 Surveyor







S.E. 1/4,  
S.E. 1/4,  
SEC. 9



20' WIDE INGRESS/EGRESS AND  
WATERLINE EASE. GRANTED TO  
SHADY COVE WATER WORKS  
PER INST 2006-014022

34 1W 09, TAX LOT 300  
SCHOOL DISTRICT # 9

34 1W 10CC, TAX LOT 2300  
SCHOOL DISTRICT # 9

10' WIDE INGRESS/EGRESS  
AND WATERLINE EASE.  
GRANTED TO SHADY COVE  
WATER WORKS PER INST  
2006-014023

34 1W 10CC, TAX LOT 2401  
JEFFREY & SHEILA SMITH

INGRESS/EGRESS  
& WATERLINE  
EASE GRANTED  
TO SHADY COVE  
WATER WORKS  
PER INST 2006-  
020303

20' WIDE INGRESS/EGRESS AND  
WATERLINE EASE. GRANTED TO  
SHADY COVE WATER WORKS  
PER INST 2006-014022

10' WIDE WATERLINE EASE.  
GRANTED TO SHADY COVE  
WATER WORKS PER INST  
2006-014021

SCHOOLHOUSE LANE (INST 2006-014024)

EAST 1/16  
CORNER  
SECTION  
9 & 16

10' WIDE WATERLINE EASE.  
GRANTED TO SHADY COVE  
WATER WORKS PER INST  
2006-014021

SECTION CORNER  
9 1/16  
16 1/16

34 1W 16, TAX LOT 201  
ROGUE CREST APARTMENTS LLC

50' WIDE EASE PER  
AGREEMENT, INST  
2006-023934

20.00' WIDE  
EASEMENT  
PER INST  
2006-044279

C/L TRANSMISSION  
EASEMENT PER  
VOL. 90, PG. 610 &  
VOL. 575, PG. 333

34 1W 16, TAX LOT 100  
SCHOOL DISTRICT # 9



EXHIBIT 'A'

INGRESS/EGRESS AND WATERLINE EASEMENT ACROSS FUTURE  
SCHOOLHOUSE LANE EXTENSION  
FROM EAGLE POINT SCHOOL DISTRICT NO. 9  
TO SHADY COVE WATERWORKS, LLC  
34 1W 09, TAX LOT 300

A strip of land, being 10.00 feet in width and lying 5.00 feet on each side of the following described centerline:

Commencing at the corner common to Sections 9, 10, 15 and 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence along the line between said Sections 9 and 10, North 0° 08' 56" West, 5.00 feet to the Point of Beginning; thence, parallel with and 5.00 feet distant from the line between said Sections 9 and 16, North 89° 52' 04" West, 1,320.54 feet to the west line of the Southeast Quarter of the Southeast Quarter of said Section 9, being the Point of Termination.

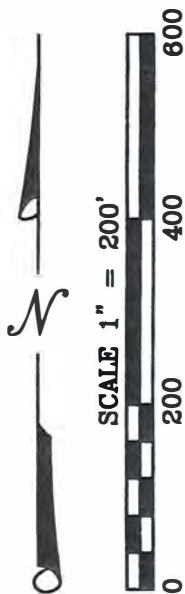
November 15, 2005







S.E. 1/4,  
S.E. 1/4,  
SEC. 9



20' WIDE INGRESS/EGRESS AND  
WATERLINE EASE GRANTED TO  
SHADY COVE WATER WORKS  
PER INST 2006-014022

34 1W 09, TAX LOT 300  
SCHOOL DISTRICT # 9

34 1W 10CC, TAX LOT 2300  
SCHOOL DISTRICT # 9

10' WIDE INGRESS/EGRESS  
AND WATERLINE EASE  
GRANTED TO SHADY COVE  
WATER WORKS PER INST  
2006-014025

34 1W 10CC, TAX LOT 2401  
JEFFREY & SHEILA SMITH

INGRESS/EGRES  
& WATERLINE  
EASE GRANTED  
TO SHADY COVE  
WATER WORKS  
PER INST 2006-  
020305

20' WIDE INGRESS/EGRESS AND  
WATERLINE EASE GRANTED TO  
SHADY COVE WATER WORKS  
PER INST 2006-014022

10' WIDE WATERLINE EASE  
GRANTED TO SHADY COVE  
WATER WORKS PER INST  
2006-014021

SCHOOLHOUSE LANE (INST 2006-014024)

EAST 1/16  
CORNER  
SECTION  
9 & 16

10' WIDE WATERLINE EASE  
GRANTED TO SHADY COVE  
WATER WORKS PER INST  
2006-014021

SECTION CORNER  
9 1/16  
16 1/16

34 1W 16, TAX LOT 201  
ROGUE CREST APARTMENTS LLC

50' WIDE EASE PER  
AGREEMENT, INST  
2006-025334

20.00' WIDE  
EASEMENT  
PER INST  
2006-044273

G/L TRANSMISSION  
EASEMENT PER  
VOL 90, PS. 610 &  
VOL 373, PS. 333

34 1W 16, TAX LOT 100  
SCHOOL DISTRICT # 9

#5 060215 29

Jackson County Official Records 2006-014025  
R-#  
Cnt=1 Sln=3 MORGANS 03/21/2006 08:03:00 AM  
\$10.00 \$5.00 \$11.00 Total:\$26.00



Kathleen S. Beckett, County Clerk for Jackson County, Oregon,  
certify that the instrument identified herein was recorded in the Clerk  
records.  
Kathleen S. Beckett - County Clerk

After recording, return to:  
School District No. 9 of Jackson County  
11 N. Royal  
Eagle Point, OR 97524

Mail tax statements to:  
School District No. 9 of Jackson County  
11 N. Royal  
Eagle Point, OR 97524

**AmeriTitle** WAS REQUESTED TO  
RECORD THIS INSTRUMENT AS  
AN ACCOMMODATION. IT HAS NOT  
BEEN EXAMINED FOR SUFFICIENCY  
OR ITS EFFECT UPON THE TITLE.

**EASEMENT DEED**

Grantor: School District No. 9 of Jackson County, 11 N. Royal, Eagle Point, OR 97524  
Grantee: Shady Cove Waterworks, LLC, 10 Crater Lake Avenue, Medford, OR 97504  
Consideration: Mutual Benefit

SCHOOL DISTRICT NO. 9 OF JACKSON COUNTY, Grantor, hereby grants and conveys unto  
SHADY COVE WATERWORKS, LLC, Grantee, an easement over, under, and across the real  
property of grantors, described as:

See Attached Exhibit "A"

The easement herein conveyed is for the purpose of ingress and egress, and the operation and  
maintenance of a waterline and a road for vehicular and pedestrian access. The use of said road shall  
be limited to uses associated therewith.

Maintenance shall be the responsibility of the Shady Cove Waterworks, LLC.

Dated March 13, 2006

School District No. 9 of Jackson County  
By: William Feusubrens  
Title: Superintendent

STATE OF OREGON )  
                                  ) ss.  
County of Jackson )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of March, 2006, by  
William Feusubrens



Notary Public for Oregon  
My commission expires 6/6/07

EXHIBIT 'A'

INGRESS/EGRESS AND WATERLINE EASEMENT  
FROM EAGLE POINT SCHOOL DISTRICT NO. 9 TO SHADY COVE  
WATERWORKS, LLC  
34 1W 10CC, TAX LOT 2300

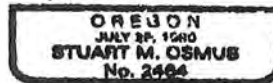
A strip of land, being 10.00 feet in width and lying 5.00 feet on each side of the following described centerline:

Commencing at the corner common to Sections 9, 10, 15 and 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence along the west boundary of said Section 10, North 0° 08' 46" West, 888.09 feet to the southwest corner of the Whispering Pines Terrace Subdivision in the City of Shady Cove, Oregon; thence along the southerly line of said Whispering Pines Terrace Subdivision, South 89° 21' 25" East, 515.686 feet to the southerly line of Cleveland Street in said City of Shady Cove; thence along said southerly line, South 64° 27' 00" East, 35.90 feet; thence, continuing along said southerly line, 48.98 feet along the arc of a curve to the left, having a radius of 160.00 feet, a central angle of 17° 32' 29", and a long chord which bears South 73° 14' 16" East, 48.79 feet to the **Point of Beginning**; thence, leaving said southerly line, South 17° 20' 52" West, 267.80 feet; thence South 37° 13' 57" West, 160.63 feet; thence South 59° 43' 57" West, 110.58 feet to the southerly line of that certain tract described in Instrument No. 99-53484, Official Records, Jackson County, Oregon, being the Point of Termination.

December 16, 2005



*S. M. C.*



Expires 12/31/05





S.E. 1/4,  
S.E. 1/4,  
SEC. 8



20' WIDE INGRESS/EGRESS AND WATERLINE EASE. GRANTED TO SHADY COVE WATER WORKS PER INST 2006-014022

34 1W 09, TAX LOT 300  
SCHOOL DISTRICT # 9

34 1W 10CC, TAX LOT 2300  
SCHOOL DISTRICT # 9

10' WIDE INGRESS/EGRESS AND WATERLINE EASE. GRANTED TO SHADY COVE WATER WORKS PER INST 2006-014025

34 1W 10CC, TAX LOT 2401  
JEFFREY & SHEILA SMITH

20' WIDE INGRESS/EGRESS AND WATERLINE EASE. GRANTED TO SHADY COVE WATER WORKS PER INST 2006-014022

10' WIDE WATERLINE EASE. GRANTED TO SHADY COVE WATER WORKS PER INST 2006-014021

INGRESS/EGRESS & WATERLINE EASE. GRANTED TO SHADY COVE WATER WORKS PER INST 2006-030505

SCHOOLHOUSE LANE (INST 2008-014024)

EAST 1/16 CORNER SECTION 9 & 16

10' WIDE WATERLINE EASE. GRANTED TO SHADY COVE WATER WORKS PER INST 2006-014021

34 1W 16, TAX LOT 201  
ROGUE CREST APARTMENTS LLC

50' WIDE EASE. PER AGREEMENT, INST 2006-023359

34 1W 16, TAX LOT 100  
SCHOOL DISTRICT # 9

SECTION CORNER 9 110 16 15

20.00' WIDE EASEMENT PER INST 2008-044273

C/L TRANSMISSION EASEMENT PER VOL. 90, PG. 610 & VOL. 375, PG. 353



EXHIBIT 'A'

INGRESS/EGRESS AND WATERLINE EASEMENT  
PARALLEL WITH EXISTING POWER LINE EASEMENT  
FROM EAGLE POINT SCHOOL DISTRICT NO. 9  
TO SHADY COVE WATERWORKS, LLC  
34 1W 09, TAX LOT 300

A strip of land, being 20.00 feet in width and lying 10.00 feet on each side of the following described centerline:

Commencing at the corner common to Sections 9, 10, 15 and 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence along the line between said Sections 9 and 10, North 0° 08' 56" West, 5.00 feet; thence, parallel with and 5.00 feet distant from the line between said Sections 9 and 16, North 89° 52' 04" West, 1,146.95 feet to the **Point of Beginning**; thence North 31° 30' 54" East, 1,065.27 feet; thence North 11° 52' 08" West, 413.46 feet to the north line of the Southeast Quarter of the Southeast Quarter of said Section 9, being the Point of Termination.

November 15, 2005



*S.M.C.*



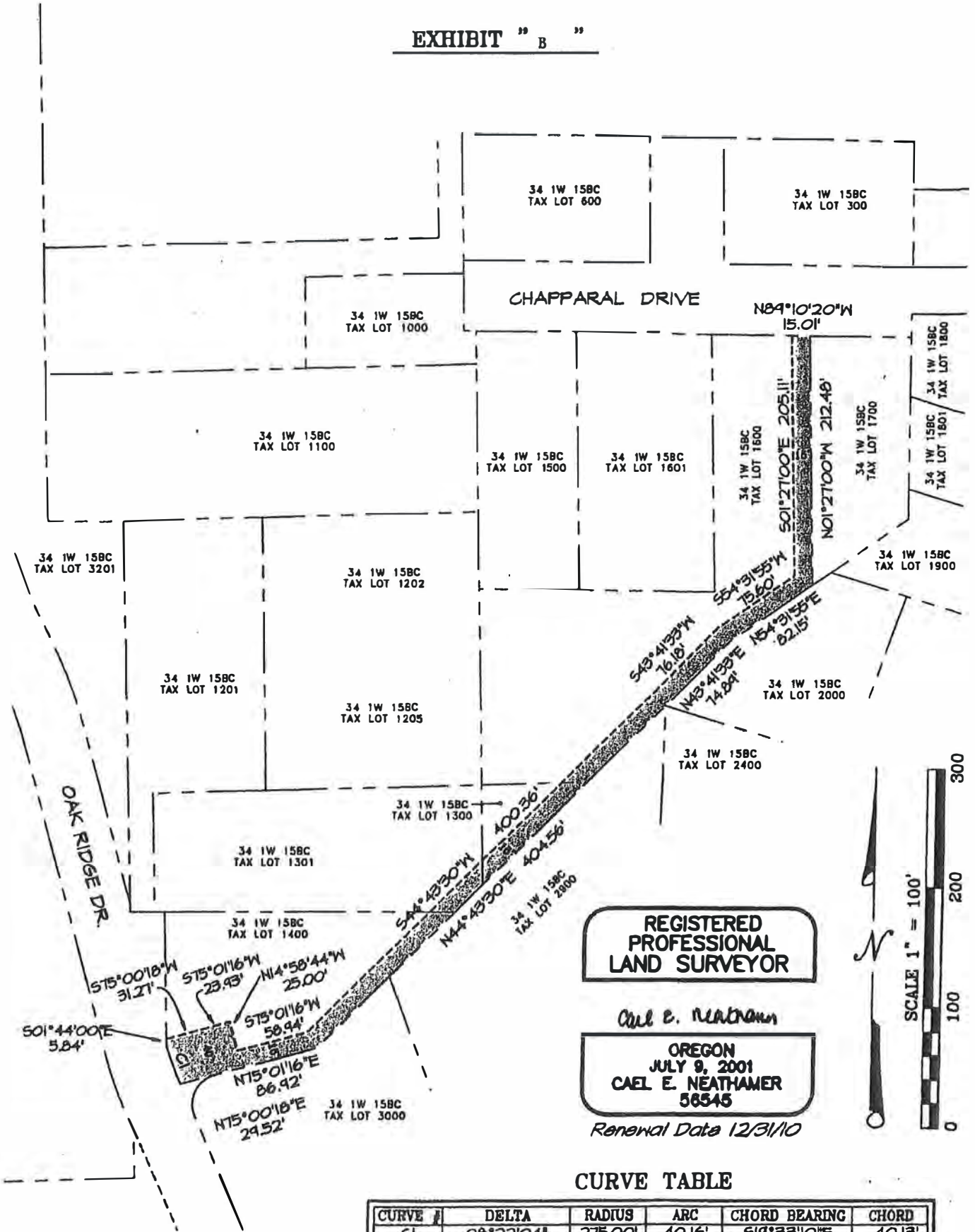
Expires 12/31/06

2





**EXHIBIT " B "**

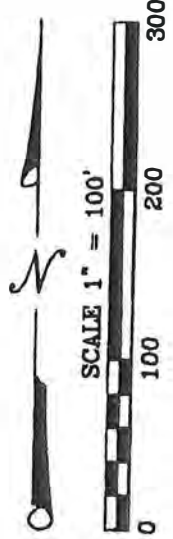


**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

*CAEL E. NEATHAMER*

**OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
56545**

*Renewal Date 12/31/10*



**CURVE TABLE**

CURVE #	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C1	08°22'04"	275.00'	40.16'	S19°33'10"E	40.13'

79442-KH  
6

Jackson County Official Records 2010-038702  
R-E

Cnt=1 HELMANCD 11/22/2010 01:52:06 PM  
\$45.00 \$10.00 \$5.00 \$11.00 \$15.00 Total:\$89.00



I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Christine Walker - County Clerk

45  
2010  
11  
22

**After recording return to:**  
Daniel O'Connor  
Huycke, O'Connor, Jarvis & Lohman, LLP  
823 Alder Creek Drive  
Medford, Oregon 97504

**GRANT OF EASEMENT**

**THIS GRANT OF EASEMENT** is made between **PremierWest Bank**, an Oregon banking corporation ("PremierWest"), as grantor, and **Shady Cove Waterworks, LLC**, an Oregon limited liability Company ("Waterworks"), as grantee.

**RECITALS**

- A.** PremierWest is the owner of certain real property located in Jackson County, Oregon, and commonly known as Township 34 South, Range 1 West, Section 15BC, Tax Lots 1300, 1301, 1400 and 1600 ("the subject property"), a more particular description of the subject property being attached hereto as **Exhibit "A"**.
- B.** Waterworks owns and intends to operate a quasi-municipal water system.
- C.** The parties desire to provide for an easement for underground water services.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

- 1.** PremierWest grants and conveys to Waterworks a variable width easement over and across the subject property for the installation, operation, maintenance, replacement and repair of underground water lines and above ground appurtenances associated with such water lines located within the easement area ("the easement"). A more particular description of the easement is attached hereto as **Exhibit "B"**. In addition to the easement, Waterworks shall be allowed occasional ingress/egress over the subject property to the easement as is reasonably necessary for the installation, maintenance, replacement and repair of the underground water lines and above ground appurtenances associated with such water lines.
- 2.** No buildings shall be constructed within the easement or which encroach on the easement. Waterworks shall maintain and repair such water lines and appurtenances. Waterworks shall repair any damage to the subject property resulting from its installation, operation, maintenance, replacement and repair of such water lines and appurtenances.
- 3.** The easement granted herein is perpetual and non-exclusive.

4. The easement granted herein is appurtenant to the real properties described herein. It is the intent of the parties that the easement granted herein shall run with the land. The easement granted herein shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns. If necessary to allow for the installation, operation, maintenance, replacement and repair of such water lines and appurtenances, Waterworks, its successors or assigns, or any of them, may assign or grant to public or private utility entities the benefits of this grant of easement.

5. The parties agree to cooperate and execute any and all documents necessary to effectuate the terms of this agreement. At the request of any party, the other parties hereto agree to execute such documents, statements and certificates as may be reasonably necessary to confirm or certify the existence and effectiveness of this agreement.

6. In case of suit, action or proceeding to enforce any rights or conditions of this contract or appeal from said suit, action or proceeding, it is mutually agreed that the losing party in such suit, action, proceeding or appeal shall pay the prevailing party therein a reasonable attorney's fee in such amount as set by the court or arbitrator(s) hearing such suit, action, proceeding or appeal.

IN WITNESS WHEREOF, the parties have set their hands to this instrument on the date set forth below.

11-22-10  
Date

PREMIERWEST BANK



By: Rich Hieb  
Its: Senior Executive Vice President  
& C.O.O.

11-22-10  
Date

SHADY COVE WATERWORKS, LLC



By: Rich Hieb  
Its: Manager



STATE OF OREGON       )  
                                  ) ss.  
County of Jackson       )

November 22, 2010

Personally appeared Rich Hieb who, being duly sworn, did say that he is the Senior Executive Vice President & C.O.O of PremierWest Bank, an Oregon banking corporation, and that said instrument was signed and sealed in behalf of said company, and he acknowledged said instrument to be its voluntary act and deed.

Before me:



Natalie A Ritchey  
Notary Public for Oregon  
My Commission Expires: August 7, 2014

STATE OF OREGON       )  
                                  ) ss.  
County of Jackson       )

November 22, 2010

Personally appeared Rich Hieb who, being duly sworn, did say that he is a Manager of Shady Cove Waterworks, LLC, an Oregon limited liability company, and that said instrument was signed and sealed in behalf of said company, and he acknowledged said instrument to be its voluntary act and deed.

Before me:



Natalie A Ritchey  
Notary Public for Oregon  
My Commission Expires: August 7, 2014

EXHIBIT 'A'

PARCEL 1:

Commencing at a point 695.33 feet North of the quarter section corner common to Sections 15 and 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, thence East 576.10 feet to an iron pipe, thence South 1°46' East 331.27 feet, thence North 88°31' East 28.0 feet to the true point of beginning (said point being 8.0 feet East of the Southwest corner of tract described in Volume 374 page 310 of the Deed Records of Jackson County, Oregon); thence East 230.0 feet to an iron pipe on the East line of tract described in Volume 366 Deeds page 398; thence along the Easterly and Southerly lines of said tract as follows: South 42°57' West 155.16 feet, and South 74°17' West, 122.60 feet to a point which is south 1°46' East from the true point of beginning; thence north 1°46' West 145.0 feet, more or less, to the true point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Shady Cove as described in instrument recorded February 9, 2007 as Document No. 2007-006806 in the Official Records of Jackson County, Oregon.

For Informational purposes only, the following is included:  
(Map No. 341W15BC, Tax Lot 1400, Account No. 1-027083-7, Code 9-15)

PARCEL 2:

Commencing at a point 695.33 feet North from the Quarter Section corner common to Sections 15 and 16 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence East 576.10 feet to an iron pipe; thence South 1°46' East 331.27 feet; thence North 88°31' East 20.0 feet to an iron pipe, for the true point of beginning; thence North 1°46' West 100.0 feet to an iron pipe; thence North 88°31' East 238.0 feet to an iron pipe on the westerly line of tract described in Volume 366, Page 269 of the Deed Records of Jackson County, Oregon; thence, along said line, South 1°29' East 105.0 feet; thence West 238.0 feet to the true point of beginning.

EXCEPTING THEREFROM any portion thereof which lies within the following described parcels; Tract A and Tract B:

Tract A:

Commencing at a 1 X" steel axle set in concrete, said point being the point of curve on the Westerly right of way line of Oregon State Highway No. 62 Station 1292+22.4 from which the West quarter corner of Section 15 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, bears South 452.30 feet and West 1272.94 feet, thence along said highway right of way line following a 1462.39 foot radius curve to the left, the long chords of said curve being described as follows: South 19°05'40" West 13.22 feet to a 5/8" iron pin, South 17°45'20" West 55.00 feet to a 5/8" iron pin and South 15°36'20" West 55.00 feet to a 5/8" iron pin, thence continue along said highway right of way line on said curve, the long chord being described as South 13°00'00" West 77.84 feet to a 5/8" iron pin, thence North 72°19'10" West 95.78 feet to a 5/8" iron pin, thence South 17°40'50" West 94.32 feet to intersect the Northerly line of the County Road (Rogue River Drive) at a 5/8" iron pin, thence along said County Road right of way line following a 602.96 foot radius curve to the left 93.24 feet (the long chord being described as South 70°43'25" West 93.16 feet) to a 5/8" iron pin, for the true

point of beginning; thence continue along said County Road right of way line following a 602.96 foot radius curve to the left 120.42 feet to a 5/8" iron pin; thence North 14°45' West 246.70 feet to the Southeasterly line of tract described in Volume 532, page 496 of the Deed Records of Jackson County, Oregon; thence North 43°15' East, along the Southeasterly line of said tract and the Northeasterly projection thereof, 229.40 feet, more or less, to a point North 2°27' East 352.78 feet from the true point of beginning; thence South 2°27' West 352.78 feet to the true point of beginning.

**Tract B:**

Commencing at a 1-3/4" steel axle set in concrete, said point being the point of curve on the Westerly right-of-way line of Oregon State Highway No. 62, Station 1292+22.4 from which the West quarter corner of Section 15 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, bears South 452.30 feet and West 1272.94 feet, thence along said highway right-of-way line following the arc of a 1462.39 foot radius curve to the left, the long chord of said curve which is South 19°05'40" West 13.22 feet to a 5/8" iron pin, thence North 72°19'10" West 100.06 feet to a 5/8" iron pin, thence North 71°23'00" West 154.56 feet to a bolt 2" in diameter, for the true point of beginning; thence South 2°27'00" West 352.78 feet to intersect the Northerly line of the County Road (Rogue River Drive) at a 5/8" iron pin; thence along said line following the arc of a 602.96 foot radius curve to the left (the long chord being South 60°34'20" West 120.24 feet) a distance of 120.42 feet to a 5/8" iron pin at the point of tangency; thence South 54°51'00" West 47.06 feet to a 5/8" iron pin at the point of curve, said curve having a radius of 542.96 feet; thence along the arc of said curve 179.00 feet (the long chord of said curve being South 64°17'20" West 178.15 feet) to a 5/8" iron pin; thence North 23°04'30" West 215.42 feet (record North 24°31' West 211.8 feet) to a 5/8" iron pin; thence North 75°43'30" East (record North 74°17' East) 122.60 feet to a 5/8" iron pin; thence North 44°41'30" East (record North 42°57' East) 404.40 feet to the true point of beginning.

EXCEPTING THEREFROM the following: Commencing at a 1 1/4" steel axle set in concrete, said point being the point of curve on the Westerly right of way line of Oregon State Highway No. 62 Station 1292+22.4 from which the West quarter corner of Section 15 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon, bears South 452.30 feet and West 1272.94 feet, thence along said highway right of way line following a 1462.39 foot radius curve to the left, the long chords of said curve being described as follows: South 19°05'40" West 13.22 feet to a 5/8" iron pin, South 17°45'20" West 55.00 feet to a 5/8" iron pin and South 15°36'20" West 55.00 feet to a 5/8" iron pin, thence continue along said highway right of way line on said curve, the long chord being described as South 13°00'00" West 77.84 feet to a 5/8" iron pin, thence North 72°19'10" West 95.78 feet to a 5/8" iron pin, thence South 17°40'50" West 94.32 feet to intersect the Northerly line of the County Road (Rogue River Drive) at a 5/8" iron pin, thence along said County Road right of way line following a 602.96 foot radius curve to the left 93.24 feet (the long chord being described as South 70°43'25" West 93.16 feet) to a 5/8" iron pin, for the true point of beginning; thence continue along said County Road right of way line following a 602.96 foot radius curve to the left

120.42 feet to a 5/8" iron pin; thence North 14°45' West 246.70 feet to the Southeasterly line of tract described in Volume 532, page 496 of the Deed Records of Jackson County, Oregon; thence North 43°15' East, along the Southeasterly line of said tract and the Northeasterly projection thereof, 229.40 feet, more or less, to a point North 2°27' East 352.78 feet from the true point of beginning; thence South 2°27' West 352.78 feet to the true point of beginning.

For Informational purposes only, the following is included:  
(Map No. 341W15BC, Tax Lot 1301, Account No. 1-072928-1, Code 9-15)

**PARCEL 3:**

Commencing at the West quarter corner of Section 15 in Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, Oregon; thence North 53°32'18" East 749.49 feet to a 5/8" iron pin located at the Northwest corner of that Tract A described in instrument recorded as No. 84-13650 of the Official Records of Jackson County, Oregon, and the true point of beginning; thence North 88°33'00" East (Record North 88°31' East) 359.43 feet to a 5/8" iron pin, being also a point on the Northwesterly line of Tract B described in instrument recorded as No. 82-08013, said Official Records; thence South 44°43'30" West (Record South 44°41'30" West), along said Northwesterly line, 153.69 feet to a 5/8" iron pin, being also the Northeast corner of tract described in instrument recorded as No. 69-11510 said Official Records; thence North 89°58'00" West (Record West), along the North line of said tract, 65.55 feet to a 5/8" iron pin; thence North 01°44'00" West 84.73 feet to a 5/8" iron pin; thence South 88°33'00" West 182.50 feet to a 5/8" iron pin; thence North 01°44'00" West (Record North 01°46' West) 20.00 feet to the true point of beginning.

EXCEPTING THEREFROM: that portion lying within the following described tract of land: Commencing at a point 695.33 feet North from the quarter section corner common to Sections 15 and 16 in Township 34 South Range 1 West of the Willamette Meridian in Jackson County, Oregon, thence East 576.10 feet to an iron pipe, thence South 1°46' East 331.27 feet, thence North 88°31' East 20.0 feet to an iron pipe, for the true point of beginning; thence North 1°46' West 100.0 feet to an iron pipe; thence North 88°31' East 238.0 feet to an iron pipe on the Westerly line of tract described in Volume 366 page 369 of the Deed Records of Jackson County, Oregon; thence, along said line, South 1°29' East 105.0 feet; thence West 238.0 feet to the true point of beginning.

For Informational purposes only, the following is included:  
(Map No. 341W15BC, Tax Lot 1300, Account No. 1-027082-9, Code 9-15)



**PARCEL 4:**

All that real property being a portion or portions of those tracts of land described as Parcels 6, 7, 8 and 9 in Instrument Number 2009-014851 of the Official Records of Jackson County, Oregon, being located in the Southwest One-quarter of the Northwest One Quarter of Section 15, Township 34, Range 1 West of the Willamette Meridian, in the City of Shady Cove, Jackson County, Oregon. The exterior boundary of Tract 3 being more particularly described as follows:

Commencing at the One-quarter corner common to Sections 15 and 16 of said Township and Range; thence North  $62^{\circ}38'09''$  East, 984.42 feet to the Southwest corner of Tract 8 of said Instrument Number 2009-014851 and the TRUE POINT OF BEGINNING; thence North  $01^{\circ}27'00''$  West, along the West line thereof, 165.49 feet; thence leaving said West line, South  $89^{\circ}10'20''$  East, 195.00 feet; thence North  $01^{\circ}27'00''$  West, 219.96 feet to a point on the southerly right-of-way of Chapparral Drive; thence South  $89^{\circ}10'20''$  East, along said right-of-way, 80.00 feet; thence leaving said right-of-way, South  $01^{\circ}27'00''$  East, 212.48 feet to a point on the South line of aforesaid Instrument Number 2009-014851; thence along said South line, the following courses and distances: South  $54^{\circ}31'55''$  West, 82.14 feet; thence South  $43^{\circ}41'33''$  West, 74.89 feet; thence South  $44^{\circ}43'30''$  West, 91.36 feet; thence South  $88^{\circ}33'00''$  West, 87.69 feet to the Point of Beginning.

Containing 45,239 square feet (1.04 acres), more or less.

Basis of bearing for this description is the East line of Section 15 per Survey Number 10135. Basis applied between the One-quarter corner and the North One-sixteenth corner common to Section 15-16, with a measurement of North  $00^{\circ}00'41''$  West, 1321.82 feet (Record: North  $00^{\circ}00'41''$  West, 1321.71 feet).

**EXHIBIT "B"**

**EASEMENT DESCRIPTION**

A variable width easement being over, through and across portions of those tracts of land described as Parcels 4, 5 and 10 of Instrument Number 2009-027500, and a portion of that tract of land described in Instrument Number 2009-043843 of the Official Records of Jackson County, Oregon, located in the Southwest One-quarter of the Northwest One-quarter of Section 15, Township 34 South, Range 1 West of the Willamette Meridian, in the City of Shady Cove, Jackson County, Oregon. The exterior of which more particularly described as follows:

Beginning at the northeast corner of that tract of land described in said Instrument Number 2009-043843, being a point on the southerly right-of-way of Chapparral Drive; thence North 89°10'20" West, along said the north line of said tract and right-of-way, 15.01 feet; thence South 01°27'00" East, leaving said line and right-of-way, 205.11 feet; thence South 54°31'55" West, 75.60 feet; thence South 43°41'33" West, 76.18 feet; thence South 44°43'30" West, 400.36 feet; thence South 75°01'16" West, 58.94 feet; thence North 14°58'44" West, 25.00 feet; thence South 75°01'16" West, 23.93 feet; thence South 75°00'18" West, 31.27 feet to a point on the easterly line of Instrument Number 2006-040906 of the Official Records of Jackson County, Oregon; thence South 01°44'00" East, along said easterly line, 5.84 feet to the beginning of a curve to the left, having a radius of 270.00 feet and a central angle of 07°10'57" (the long chord of which bears South 20°08'43" East 34.45 feet); thence along the westerly line of Instrument Number 2007-006806 of the Official Records of Jackson County, Oregon, and along the arc of said curve, 34.47 feet to the southwest corner of said Tract 4 of Instrument Number 2009-027500; thence along the southerly boundary of Tracts 4, 5 and 10 of said Instrument Number 2009-027500, and the southerly boundary of that tract described in said Instrument Number 2009-043843 the following courses and distances: North 75°00'18" East, 29.52 feet; thence North 75°01'16" East, 86.92 feet; thence North 44°43'30" East, 404.56 feet; thence North 43°41'33" East, 74.89 feet; thence North 54°31'55" East, 82.15 feet to the southeast corner of said Instrument Number 2009-049843; thence North 01°27'00" West, along the east line thereof, 212.48 feet to the Point of Beginning.

Containing 0.34 ACRES, more or less.

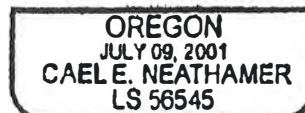
Basis of bearings for this description is Survey Number 20552 as filed in the office of the Jackson County Surveyor.

Prepared by:  
Neathamer Surveying, Inc.  
3126 State St, Suite 100  
P.O. Box 1584  
Medford, OR 97501  
Phone: (541) 732-2869  
Facsimile: (541) 732-1382  
Project: 09025-J

Print Date: November 17, 2010

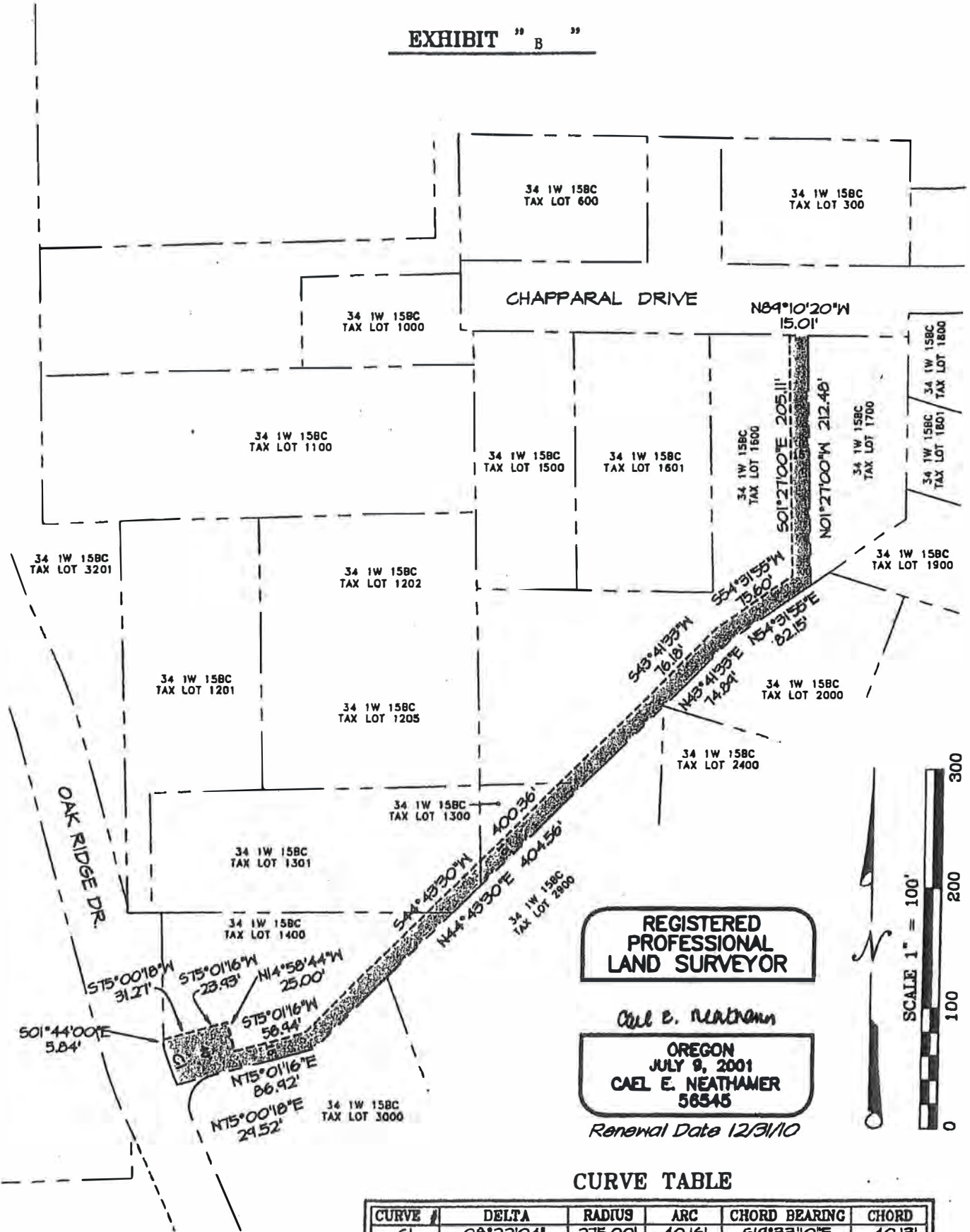


*CAEL E. NEATHAMER*



RENEWAL DEC. 31, 2010

**EXHIBIT " B "**

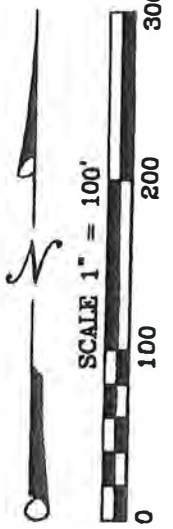


**REGISTERED  
PROFESSIONAL  
LAND SURVEYOR**

*Carl E. Neathamer*

**OREGON  
JULY 9, 2001  
CAEL E. NEATHAMER  
56545**

*Renewal Date 12/31/10*



**CURVE TABLE**

CURVE #	DELTA	RADIUS	ARC	CHORD BEARING	CHORD
C1	08°22'04"	275.00'	40.16'	S19°33'10"E	40.13'





STATE OF OREGON

COUNTY OF JACKSON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

SHADY COVE WATERWORKS LLC  
10 CRATER LAKE AVE, SUITE 21  
MEDFORD, OR 97504

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: S-86478

SOURCE OF WATER: SECOND PUMP STATION POND, PERMIT R-14319 (APPLICATION R-86479), AND LOST CREEK RESERVOIR, TRIBUTARIES OF ROGUE RIVER

PURPOSE OR USE: QUASI-MUNICIPAL USES

MAXIMUM VOLUME: 109.0 ACRE FEET (AF) EACH YEAR, BEING 9.0 AF FROM SECOND PUMP STATION POND AND 100.0 AF FROM LOST CREEK RESERVOIR

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JANUARY 10, 2006

POINT OF DIVERSION LOCATIONS:

SECOND PUMP STATION POND: NW ¼ NE ¼, SECTION 16, T34S, R1W, W.M.; 270 FEET SOUTH & 540 FEET EAST FROM N1/4 CORNER, SECTION 16

LOST CREEK RESERVOIR RE-DIVERSION: NE ¼ SE ¼, SECTION 16, T34S, R1W, W.M.; 790 FEET SOUTH & 350 FEET WEST FROM E1/4 CORNER, SECTION 16

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q
34 S	1 W	WM	8	NE NE
34 S	1 W	WM	8	NW NE
34 S	1 W	WM	8	SW NE
34 S	1 W	WM	8	SE NE
34 S	1 W	WM	8	NE NW
34 S	1 W	WM	8	NW NW
34 S	1 W	WM	8	SW NW

Twp	Rng	Mer	Sec	Q-Q
34 S	1 W	WM	8	SE NW
34 S	1 W	WM	8	NE SW
34 S	1 W	WM	8	NW SW
34 S	1 W	WM	8	SW SW
34 S	1 W	WM	8	SE SW
34 S	1 W	WM	8	NE SE
34 S	1 W	WM	8	NW SE
34 S	1 W	WM	8	SW SE
34 S	1 W	WM	8	SE SE
34 S	1 W	WM	9	SE NE
34 S	1 W	WM	9	NW SW
34 S	1 W	WM	9	SW SW
34 S	1 W	WM	9	NE SE
34 S	1 W	WM	9	SW SE
34 S	1 W	WM	9	SE SE
34 S	1 W	WM	10	SW NW
34 S	1 W	WM	10	NE SW
34 S	1 W	WM	10	NW SW
34 S	1 W	WM	10	SW SW
34 S	1 W	WM	10	SE SW
34 S	1 W	WM	10	NW SE
34 S	1 W	WM	15	NW NE
34 S	1 W	WM	15	SW NE
34 S	1 W	WM	15	NE NW
34 S	1 W	WM	15	NW NW
34 S	1 W	WM	15	SW NW
34 S	1 W	WM	15	SE NW
34 S	1 W	WM	15	NE SW
34 S	1 W	WM	15	NW SW
34 S	1 W	WM	15	SW SW

Twp	Rng	Mer	Sec	Q-Q
34 S	1 W	WM	15	SE SW
34 S	1 W	WM	15	NW SE
34 S	1 W	WM	16	NE NE
34 S	1 W	WM	16	NW NE
34 S	1 W	WM	16	SW NE
34 S	1 W	WM	16	SE NE
34 S	1 W	WM	16	NE NW
34 S	1 W	WM	16	SE NW
34 S	1 W	WM	16	NE SW
34 S	1 W	WM	16	SW SW
34 S	1 W	WM	16	SE SW
34 S	1 W	WM	16	NE SE
34 S	1 W	WM	16	NW SE
34 S	1 W	WM	16	SW SE
34 S	1 W	WM	16	SE SE
34 S	1 W	WM	21	NE NE
34 S	1 W	WM	21	NW NE
34 S	1 W	WM	21	SW NE
34 S	1 W	WM	21	SE NE
34 S	1 W	WM	21	NE NW
34 S	1 W	WM	21	SW NW
34 S	1 W	WM	21	SE NW
34 S	1 W	WM	21	NE SE
34 S	1 W	WM	21	NW SE
34 S	1 W	WM	21	SW SE
34 S	1 W	WM	21	SE SE
34 S	1 W	WM	22	NW NW
34 S	1 W	WM	28	NE NE
34 S	1 W	WM	28	NW NE

## Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

The use of water under this right is subject to the terms and conditions of the *WATER STORAGE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND SHADY COVE WATERWORKS, LLC, MEDFORD, OREGON FOR ORIGINALLY AUTHORIZED WATER STORAGE SPACE IN LOST CREEK LAKE PROJECT, OREGON*, or a satisfactory replacement, a copy of which is on file in the records of the Water Resources Department.

**STANDARD CONDITIONS**

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.



This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2011. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

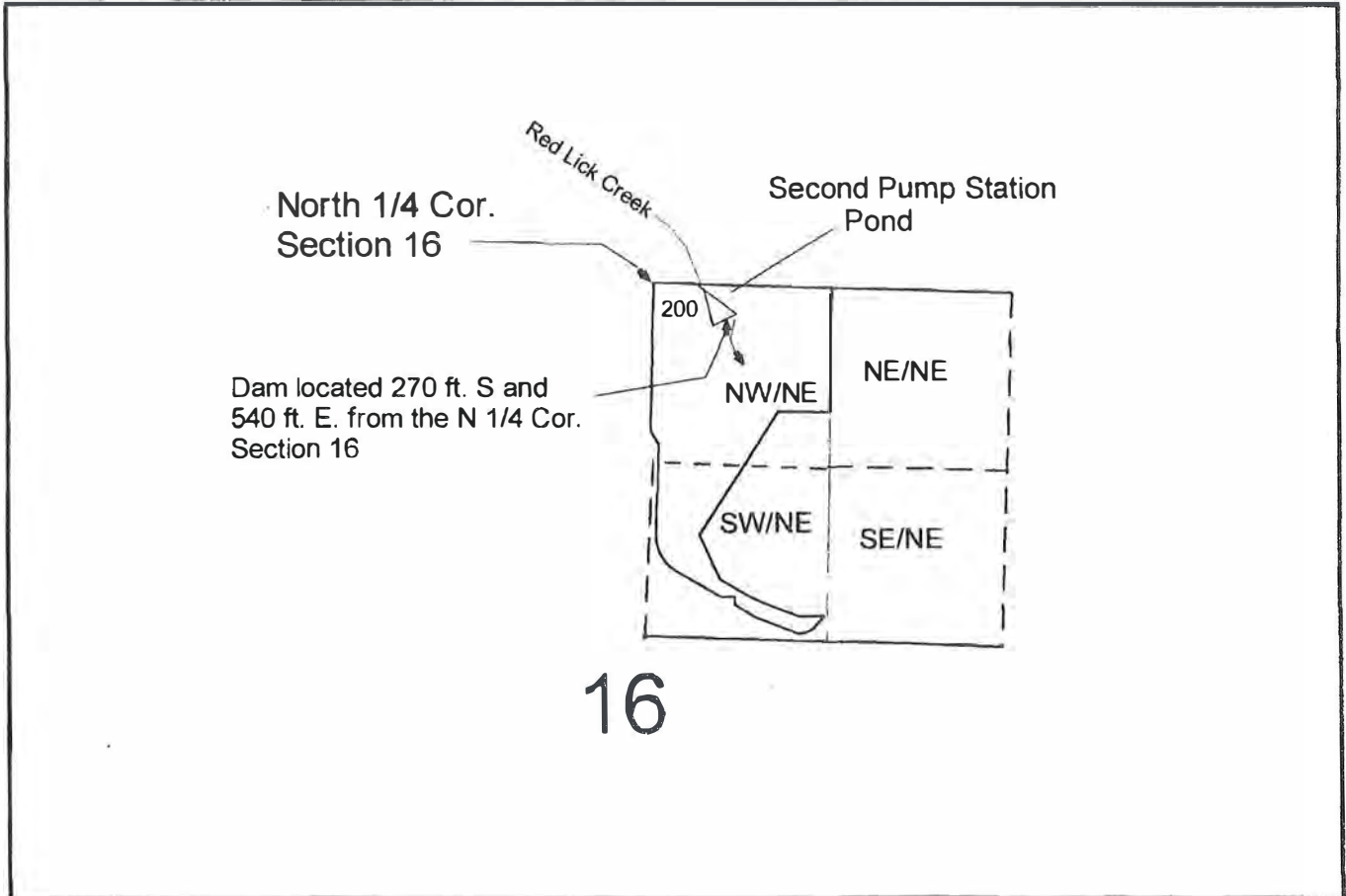
Issued November 2, 2006

*E. Timothy Well* for

Phillip C. Ward, Director  
Water Resources Department

NE 1/4 Section 16  
Township 34S Range 1W w.m.

RECEIVED  
JAN 10 2006  
WATER RESOURCES DEPT  
SALEM, OREGON



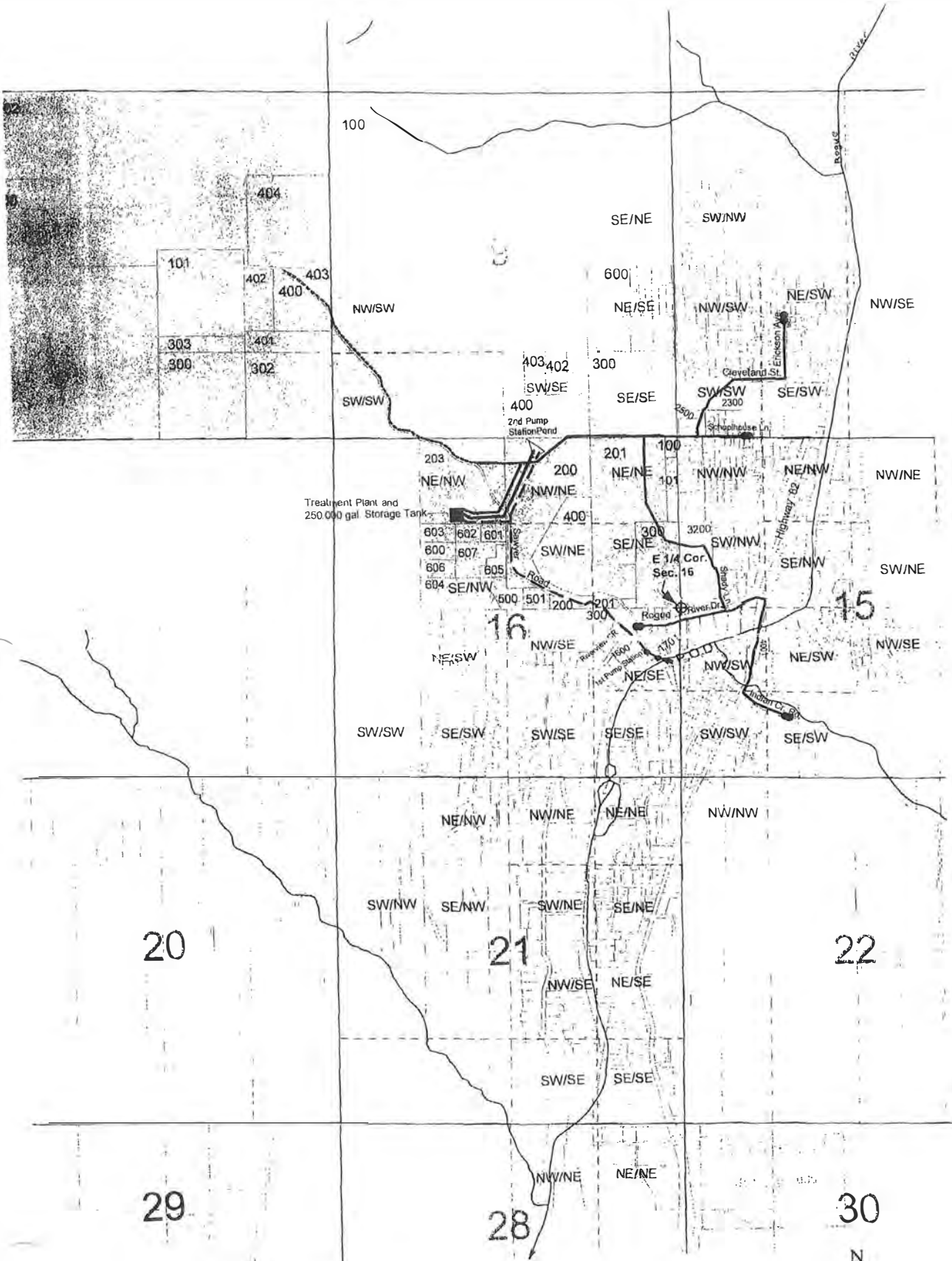
Scale  
1 inch - 1320 feet



Map to accompany storage application (alternate Review)  
for R.J. Boehm  
(Boehm Family Trust)

redacted app  
app no R 86479

# Shady Cove Waterworks, LLC - T34S R1W., W.M.



## Legend

- Service Area - City Limits
- Service Area - Outside City Limits
- Treated Water Line 2"



**Oregon Water Resources Department  
Water Right Services Division**

**Application for Extension of Time**

In the Matter of the Application for an Extension of Time )  
for Permit S-54348, Water Right Application S-86478, ) PROPOSED FINAL ORDER  
in the name of the Shady Cove Waterworks LLC )

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**Permit Information**

**Application File S-86478/ Permit S-54348**

Basin 15 – Rogue Basin / Watermaster District 13

Date of Priority: January 10, 2006

**Authorized Use of Water**

Source of Water: Second Pump Station Pond (Permit R-14319) and  
Lost Creek Reservoir, Tributaries of the Rogue River  
Purpose or Use: Quasi-Municipal  
Maximum Rate: 109.0 acre-feet (AF) each year, being 9.0 AF from  
Second Pump Station Pond and 100.0 AF from Lost  
Creek Reservoir

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**This Extension of Time request is being processed in accordance with Oregon  
Administrative Rule Chapter 690, Division 315.**

***Please read this Proposed Final Order in its entirety as it contains  
additional conditions not included in the original permit.***

This Proposed Final Order applies only to Permit S-54348, water right Application S-86478.

**Summary of Proposed Final Order for Extension of Time**

**The Department proposes to:**

- Grant an extension of time to complete construction from October 1, 2011 to October 1, 2016.
- Grant an extension of time to apply water to full beneficial use from October 1, 2011 to October 1, 2016.
- Make the extension of time subject to certain conditions as set forth below.



## **ACRONYM QUICK REFERENCE**

Department – Oregon Department of Water Resources  
PFO – Proposed Final Order  
WMCP – Water Management and Conservation Plan

### **Units of Measure**

cfs – cubic feet per second  
gpm – gallons per minute  
mgd – million gallons per day

## **AUTHORITY**

Generally, see **ORS 537.230** and **OAR Chapter 690 Division 315**.

**ORS 537.230(3)** provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order and allow an extension to complete construction or perfect a water right. In determining the extension, the Department shall give due weight to the considerations described under **ORS 539.010(5)** and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

**ORS 539.010(5)** provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

**OAR 690-315-0080** provides in pertinent part that the Department shall make findings to determine if an extension of time for municipal and/or quasi-municipal water use permit holders may be approved to complete construction and/or apply water to full beneficial use.

**OAR 690-315-0090(3)** authorizes the Department, under specific circumstances, to condition an extension of time for municipal and/or quasi-municipal water use permit holders to provide that diversion of water beyond the maximum rate diverted under the permit or previous extension(s) shall only be authorized upon issuance of a final order approving a WMCP Plan under **OAR Chapter 690, Division 86**.

## **FINDINGS OF FACT**

### **Background**

1. Permit S-54348 was granted by the Department on November 2, 2006. The permit authorizes the use of up to 109.0 AF of water, being 9.0 AF from the Second Pump Station Pond and 100 AF from Lost Creek Reservoir, tributaries to the Rogue River for

quasi-municipal use. It specified that both construction of the water development project and complete application of water was to be made on or before October 1, 2011.

2. The permit holder submitted an "Application for Extension of Time" to the Department on April 16, 2012, requesting both the time to complete construction and the time to apply water to full beneficial use under the terms and conditions of Permit S-54348 be extended from October 1, 2011 to October 1, 2016. This is the first extension of time request for Permit S-54348.
3. Notification of the Application for Extension of Time for Permit S-54348 was published in the Department's Public Notice dated May 1, 2012. No public comments were received regarding the extension application.

**Review Criteria for Quasi-Municipal Water Use Permits [OAR 690-315-0080(1)]**

*The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0080(1). This determination shall consider the applicable requirements of ORS 537.230<sup>1</sup>, 537.630<sup>2</sup> and/or 539.010(5)<sup>3</sup>*

**Complete Extension of Time Application [OAR 690-315-0080(1)(a)]**

4. On April 16, 2012, the Department received a completed application for extension of time and the fee specified in ORS 536.050 from the permit holder.

**Start of Construction [OAR 690-315-0080(1)(b)]**

5. Senate Bill 300 (1999 legislation) eliminated the requirement that holders of new surface water and ground water permits start construction on water projects within one year after the Department issues the permit. Senate Bill 300 applies to any application for a permit filed after October 23, 1999.

**Duration of Extension [OAR 690-315-0080(1)(c)(d)]**

*Under OAR 690-315-0080(1)(c),(d), in order to approve an extension of time for municipal and quasi-municipal water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.*

6. The remaining work to be accomplished under Permit S-54348 consists completing construction of the water system including installing a water treatment plant, and applying water to full beneficial use.
7. As of October 1, 2011, the permit holder had diverted 4.4 AF of the 109.0 AF of water authorized under Permit S-54348 for quasi-municipal purposes.

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<sup>1</sup> ORS 537.230 applies to surface water permits only.

<sup>2</sup> ORS 537.630 applies to ground water permits only.

<sup>3</sup> ORS 537.010(5) applies to surface water and ground water permits.

8. In addition to the 109.0 AF of water authorized under Permit S-54348 from the Second Pump Station Pond water from runoff and Red Lick Creek is stored in Second Station Pond under Permit R-14319 and Lost Creek Reservoir, Shady Cove Waterworks LLC holds the following rights:
  - Permit G-16281 for 0.17 cfs of water from Three wells for emergency purposes.These water rights and permits total 0.17 cfs of water from three wells and the use of 109.0 AF of stored water. Shady Cove Waterworks LLC has not yet made beneficial use of 104.6 AF of water under Permit S-54348 and 0.16 cfs of water under Permit G-31293.
9. Shady Cove Waterworks, LLC peak water demand within its service area boundaries was 4.4 AF in 2011.
10. According to Shady Cove Waterworks, LLC in 2011, 18 households are currently connected to the water system. The population within its service boundary was 41. Shady Cove Waterworks, LLC estimates the population will increase at a growth average rate of 60 percent per year, reaching an estimated population of 800 by the year 2016 and anticipates 350 connections in 2016.
11. According to Shady Cove Waterworks LLC, their peak demand is projected to be approximately 109.0 AF of water by the year 2016.
12. Full development of Permit S-54348 is needed to meet the present and future water demands of Shady Cove Waterworks LLC, including emergency use.
13. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2016, to complete construction and to accomplish the application of water to beneficial use under the terms of Permit S-54348 is both reasonable and necessary.

**Good Cause [OAR 690-315-0080(1)(e) and (3)(a-g)]**

*The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0080(3).*

**Reasonable Diligence and Good Faith of the Appropriator [OAR 690-315-0080(3)(a) and (1)(c) and (4)]**

*Reasonable diligence and good faith of the appropriator must be demonstrated during the permit period or prior extension period as a part of evaluating good cause in determining whether or not to grant an extension. In determining the reasonable diligence and good faith of a municipal or quasi-municipal water use permit holder, the Department shall consider activities associated with the development of the right including, but not limited to, the items set forth under OAR 690-315-0080(4) and shall evaluate how well the applicant met the conditions of the permit or conditions of a prior extension period.*

14. Actual construction began prior to the deadline specified in the permit. Installation of
- Proposed Final Order: Permit S-54348

transmission pipe, Intake, fish screen and pump station began 2003

15. The following work was accomplished during the original development time frame under Permit S-54348.
  - Purchased and installed a treatment plant;
  - Modified intake; and
  - Installed treatment plant piping.
16. As of April 16, 2012, the permit holder invested approximately \$3,320,000, which is 86 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$500,000 investment is needed for the completion of this project.
17. As of October 1, 2011, 4.4 AF of the 109.00 AF allowed has been diverted from the Second pump station pond and Lost Creek Reservoir for beneficial quasi-municipal purposes under the terms of this permit.
18. The Department has considered permit holder's compliance with conditions, and did not identify any concerns.

**Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0080(3)(b)]**

19. As of April 16, 2012, the permit holder invested \$3,320,000, which is 86 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$500,000 investment is needed for the completion of this project.

**The Market and Present Demands for Water [OAR 690-315-0080(3)(d) and (5)(a-f)]**

*For quasi-municipal water use permits issued after November 2, 1998, in making a determination of good cause pursuant to 690-315-0080(3)(d), the Department shall also consider, but is not limited to, the factors in 690-315-0080(5)(a-f).*

The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0080(5)(a-f)].

20. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit S-54348; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such application for a new water right is submitted. The points of diversion for Permit S-54348, located within the Second Pump Station Pond, and Lost Creek Reservoir Basin, tributaries of the Rogue



River are not located within a Withdrawn Area. The Second Pump Station Pond, and Lost Creek Reservoir are located above the Rogue River Scenic Waterway, and are located within an area ranked "moderate" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and are located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. The Second Pump Station Pond, and Lost Creek Reservoir, tributaries of Rogue River are not listed by the Department of Environmental Quality as a water quality limited stream.

Economic investment in the project to date [OAR 690-315-0080(5)(d)].

21. As of April 16, 2012, the permit holder invested \$3,320,000, which is 86 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$500,000 investment is needed for the completion of this project.

Other economic interests dependent on completion of the project [OAR 690-315-0080(5)(e)].

22. None have been identified.

Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0080(5)(f)].

23. As described in Findings 7 through 12 Shady Cove Waterworks LLC has indicated, and the Department finds that Shady Cove Waterworks LLC must rely on full development of Permit S- 54348 to meet its present and future water demands.
24. Shady Cove Waterworks LLC projects a population increase of 60 percent per year over a 5 year period, being the years 2011 to 2016.
25. Given the current water supply situation of Shady Cove Waterworks LLC, as well as current and expected demands including emergency use, there is a market and present demand for the water to be supplied under Permit S-54348.
26. As required by OAR 690-315-0090(3), the Department has determined that, based upon the projected high rate of growth and the presence of listed fish species in the Rogue River the permit holder shall be subject to OAR 690-315-0090(3) requiring submittal of a new Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The required Water Management and Conservation Plan shall be submitted to the Department within 3 years from the date this extension is final.

Fair Return Upon Investment [OAR 690-315-0080(3)(e)]

27. Use and income from the permitted water development project would result in reasonable returns upon the investment made in the project to date.

**Other Governmental Requirements [OAR 690-315-0080(3)(f)]**

28. Delays caused by any other governmental requirements in the development of this project have not been identified.

**Events which Delayed Development under the Permit [OAR 690-315-0080(3)(g)]**

29. According to Shady Cove Waterworks LLC, delay of development under Permit S-54348 was due, in part, to the size and scope of the municipal water system, which was designed to be phased in over a period of years, economic downturn, and financial difficulties of the prior owner.

**CONCLUSIONS OF LAW**

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0080(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0080(1)(b)
4. The time requested to complete construction and apply water to full beneficial use is reasonable, as required by OAR 690-315-0080(1)(c).
5. Completion of construction and full application of water to beneficial use can be completed by October 1, 2016<sup>4</sup>, as required by OAR 690-315-0080(1)(d).
6. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and the fair return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the water right permit holder had no control, and the Department has determined that the permit holder has shown good cause for an extension of time to complete construction and to apply the water to full beneficial use pursuant to OAR 690-315-0080(1)(e).
7. As required by OAR 690-315-0090(3) and as described in Finding 26, above, and specified under Item 1 of the "Conditions" section of this PFO, the diversion of water

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<sup>4</sup> For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Department, for issuance of a water right certificate; or (2) continue to appropriate water under the water right permit until the Department conducts a survey and issues a water right certificate under ORS 537.625.

beyond 4.4 AF up to 109.00 AF under Permit S-54348 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) under OAR Chapter 690, Division 86 that grants access to a greater rate of diversion under the permit consistent with OAR 690-086-0130(7).

**Proposed Order**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

extend the time to complete construction under Permit S-54348 from October 1, 2011 to October 1, 2016.

extend the time to apply the water to beneficial use under Permit S-54348 from October 1, 2011 to October 1, 2016.

Subject to the following conditions:

**CONDITIONS**

1. **Development Limitations**

Diversion of any water beyond 4.4 AF up to 109.00 cfs under Permit S-54348 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) (WMCP) under OAR Chapter 690, Division 86 which grants access to a greater rate of diversion under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. Use of water under Permit S-54348 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department.

The deadline established in the Extension Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of this order may also meet the WMCP submittal requirements of other Department orders.

DATED: November 25, 2014

  
Dwight French  
Water Right Services Division Administrator

*If you have any questions,  
please check the information  
box on the last page for the  
appropriate names and phone  
numbers.*

### Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 9, 2015**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
  - a. The name, address and telephone number of the petitioner;
  - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
  - c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
  - d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
  - e. Any citation of legal authority supporting the petitioner, if known;
  - f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
  - g. The applicant or non-applicant protest fee required under ORS 536.050.
3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
  - a. Issue a final order on the extension request; or
  - b. Schedule a contested case hearing if a protest has been submitted, and:
    - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
    - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

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- If you have any questions about statements contained in this document, please contact Mabelle A Bamberger at 503-986-0802.
  - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
  - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
  - Address any correspondence to:      Water Right Services Division  
725 Summer St NE, Suite A
  - Fax: 503-986-0901                      Salem, OR 97301-1266
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**Oregon Water Resources Department  
Water Right Services Division**

Water Rights Application  
Number S-86478

**Final Order  
Extension of Time for Permit Number S-54348  
Permit Holder: Shady Cove Waterworks LLC**

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**Permit Information**

**Application File S-86478/ Permit S-54348**  
Basin 15 – Rogue Basin / Watermaster District 13  
Date of Priority: January 10, 2006

**Authorized Use of Water**

Source of Water:	Second Pump Station Pond (Permit R-14319) and Lost Creek Reservoir, Tributaries of the Rogue River
Purpose or Use:	Quasi-Municipal
Maximum Rate:	109.0 acre-feet (AF) each year, being 9.0 AF from Second Pump Station Pond and 100.0 AF from Lost Creek Reservoir

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**This Extension of Time request is being processed in accordance with  
Oregon Revised Statute 537.230 and 539.010(5), and  
Oregon Administrative Rule Chapter 690, Division 315**

**Appeal Rights**

**This is a final order in other than a contested case.** This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

### **Application History**

The Department issued Permit S-54348 on November 2, 2006. The permit called for completion of construction by October 1, 2011, and complete application of water to beneficial use by October 1, 2011. On April 16, 2012, Shady Cove Waterworks LLC submitted an application to the Department for an extension of time for Permit S-54348. In accordance with OAR 690-315-0050(2), on November 25, 2014, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2016, and the time to fully apply water to beneficial use to October 1, 2016. The protest period closed January 9, 2015, in accordance with OAR 690-315-0060(1). No protest was filed.

## **FINDINGS OF FACT**

Except as expressly stated herein, The Department adopts and incorporates by reference the Proposed Final Order dated November 25, 2014.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

## **CONDITIONS**

### **1. Development Limitations**

Diversion of any water beyond 4.4 AF up to 109.0 AF under Permit S-54348 shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan(s) (WMCP) under OAR Chapter 690, Division 86 which grants access to a greater rate of diversion under the permit consistent with OAR 690-086-0130(7). The required WMCP shall be submitted to the Department within 3 years of this Final Order. Use of water under Permit S54348 must be consistent with this and subsequent WMCP's approved under OAR Chapter 690, Division 86 on file with the Department.

The deadline established in the Extension Final Order for submittal of a WMCP shall not relieve a permit holder of any existing or future requirement for submittal of a WMCP at an earlier date as established through other orders of the Department. A WMCP submitted to meet the requirements of this order may also meet the WMCP submittal requirements of other Department orders

## **CONCLUSION OF LAW**

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0080(3).

## ORDER

The extension of time for Application S-86478, Permit S-54348, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended from October 1, 2011 to October 1, 2016. The deadline for applying water to full beneficial use within the terms and conditions the permit is extended from October 1, 2011 to October 1, 2016.

DATED: January 16, 2015



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

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If you have any questions about statements contained in this document, please contact Mabelle A Bamberger at (503) 986-0802.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900

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STATE OF OREGON

COUNTY OF JACKSON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

SHADY COVE WATER WORKS, LLC  
10 CRATER LAKE AVE, SUITE 21  
MEDFORD, OR 97504

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16710

SOURCE OF WATER: WELL 1, WELL 2, AND WELL 3 (JACK 32812) IN ROGUE RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USE

MAXIMUM RATE: 0.17 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND FOR EMERGENCY PURPOSES; HOWEVER, THE WELLS CANNOT BE USED MORE THAN 30 DAYS EACH CALENDAR YEAR

DATE OF PRIORITY: AUGUST 21, 2006

WELL LOCATION:

WELL 1: NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 16, T34S, R1W, W.M.; 490 FEET SOUTH AND 1525 FEET EAST FROM NW CORNER, SECTION 16

WELL 2: NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 16, T34S, R1W, W.M.; 735 FEET SOUTH AND 2745 FEET EAST FROM NW CORNER, SECTION 16

WELL 3 (JACK 32812): NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 16, T34S, R1W, W.M.; 1030 FEET SOUTH AND 3210 FEET EAST FROM NW CORNER, SECTION 16

THE PLACE OF USE IS LOCATED AS FOLLOWS:

ALL  
SECTION 8

SE  $\frac{1}{4}$  NE  $\frac{1}{4}$   
NW  $\frac{1}{4}$  SW  $\frac{1}{4}$   
SW  $\frac{1}{4}$  SW  $\frac{1}{4}$   
NE  $\frac{1}{4}$  SE  $\frac{1}{4}$   
SW  $\frac{1}{4}$  SE  $\frac{1}{4}$   
SE  $\frac{1}{4}$  SE  $\frac{1}{4}$

SECTION 9

TOWNSHIP 34 SOUTH, RANGE 1 WEST, W.M.

## PLACE OF USE (CONT.):

SW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 SW  $\frac{1}{4}$   
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$   
 SECTION 10

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$   
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$   
 NW  $\frac{1}{4}$   
 SW  $\frac{1}{4}$   
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$   
 SECTION 15

NE  $\frac{1}{4}$   
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 NE  $\frac{1}{4}$  SW  $\frac{1}{4}$   
 SW  $\frac{1}{4}$  SW  $\frac{1}{4}$   
 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$   
 SE  $\frac{1}{4}$   
 SECTION 16

NE  $\frac{1}{4}$   
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 SW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 SE  $\frac{1}{4}$   
 SECTION 21

NW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
 SECTION 22

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$   
 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$   
 SECTION 28

TOWNSHIP 34 SOUTH, RANGE 1 WEST, W.M.

## Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the meter(s) in good working order. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. This report shall also include the dates when water was used during a given event and the total volume of water used per event. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter(s); provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.



The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

The wells shall produce ground water only from the fractured bedrock ground water reservoir.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

#### STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.



Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

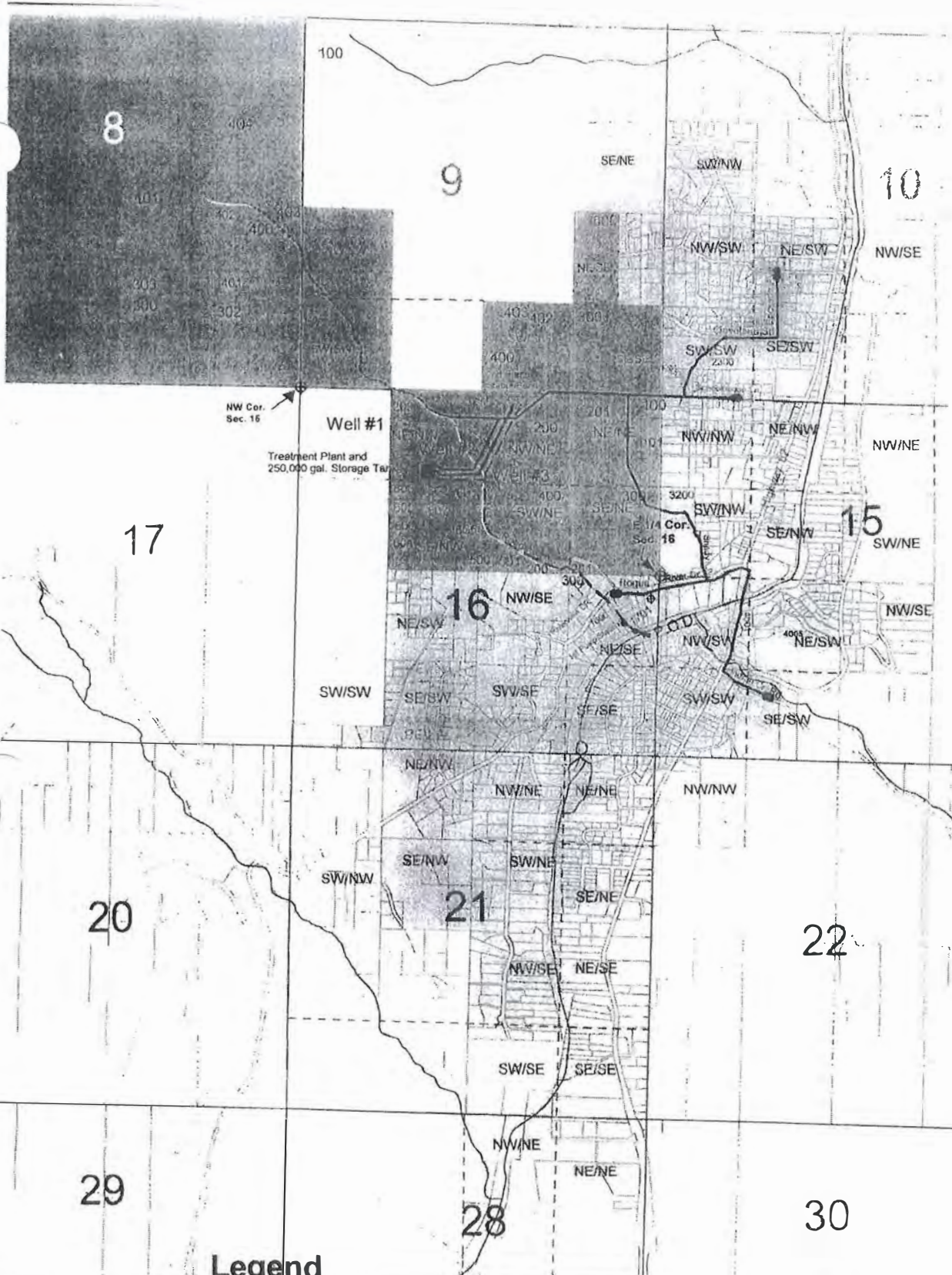
Completion of construction and complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued January 17, 2008



for Phillip C. Ward, Director  
Water Resources Department



**Legend**

- Service Area - City Limits
  - Service Area - Outside City Limits
  - Flowoff - Future connections
  - Treated Water Line 3"
  - Raw Water Line - River
  - Raw Water Line - Wells
  - Quarter Quarter Line
- Well #1 NE/NW 490 ft. S. & 1525 ft. W.; Well #2 NW/NE 735 ft. S & 2745 ft. W.  
 Well #3 NW/NE 1030 S. & 3210 W. ALL from the NW Cor. Section 16



**Scale**  
 1 inch = 1320 feet  
 July 19, 2006  
 n.e.d.

**Oregon Water Resources Department  
Water Right Services Division**

**Application for Extension of Time**

In the Matter of the Application for an Extension of Time        )  
for Permit G-16281, Water Right Application G-16710,        )        PROPOSED FINAL ORDER  
in the name of the Shady Cove Waterworks                    )

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**Permit Information**

**Application File G-16710 / Permit G-16281**

Basin 15 – Rogue Basin / Watermaster District 13

Date of Priority: August 21, 2006

**Authorized Use of Water**

Source of Water: Three Wells within the Rogue River Basin

Purpose or Use: Quasi-Municipal

Maximum Rate: 0.17 cubic feet per second (cfs)

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**This Extension of Time request is being processed in accordance with Oregon  
Administrative Rule Chapter 690, Division 315.**

***Please read this Proposed Final Order in its entirety.***

This Proposed Final Order applies only to Permit G-16281, water right Application G-16710.

**Summary of Proposed Final Order for Extension of Time**

**The Department proposes to:**

- Grant an extension of time to complete construction from October 1, 2012 to October 1, 2016.
- Grant an extension of time to apply water to full beneficial use from October 1, 2012 to October 1, 2016.

**ACRONYM QUICK REFERENCE**



Department – Oregon Department of Water Resources  
PFO – Proposed Final Order  
WMCP – Water Management and Conservation Plan

Units of Measure

cfs – cubic feet per second

gpm – gallons per minute

**AUTHORITY**

Generally, see **ORS 537.630** and **OAR Chapter 690 Division 315**.

**ORS 537.630(1)** provides in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order and allow an extension of time, for the completion of the well or other means of developing and securing the ground water or for complete application of water to beneficial use. In determining the extension, the department shall give due weight to the considerations described under **ORS 539.010 (5)** and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

**ORS 539.010(5)** provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

**OAR 690-315-0080** provides in pertinent part that the Department shall make findings to determine if an extension of time for quasi-municipal water use permit holders may be approved to complete construction and/or apply water to full beneficial use.

**OAR 690-315-0090(4-5)** provides in pertinent part that quasi-municipal water use permit holders that serve a population of less than 1000 and/or can reasonably demonstrate that fewer than five years is necessary to complete construction and apply the water to beneficial use are not subject to **OAR 690-315-0090(3)** unless on review of the certain criteria the Department determines that compliance is necessary.

**FINDINGS OF FACT**

**Background**

1. Permit G-16281 was granted by the Department on January 17, 2008. The permit authorizes the use of up to 0.17 cfs of water, from three Wells, being Well 1, Well 2 and Well 3 (JACK 32812), in the Rogue River Basin for quasi-municipal use. The wells are



authorized year round for emergency purposes; however, the Wells cannot be used more than 30 days each calendar year. The permit specified both construction of the water development project and complete application of water was to be made on or before October 1, 2012.

2. The permit holder submitted an "Application for Extension of Time" to the Department on November 20, 2012, requesting both the time to complete construction and the time to apply water to full beneficial use under the terms and conditions of Permit G-16281 be extended from October 1, 2012 to October 1, 2016. This is the first extension of time request for Permit G-16281.
3. Notification of the Application for Extension of Time for Permit G-16281 was published in the Department's Public Notice dated December 4, 2012. No public comments were received regarding the extension application.

**Review Criteria for Quasi-Municipal Water Use Permits [OAR 690-315-0080(1)]**

*The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0080. This determination shall consider the applicable requirements of ORS 537.230<sup>1</sup>, 537.630<sup>2</sup> and/or 539.010(5)<sup>3</sup>*

**Complete Extension of Time Application [OAR 690-315-0080(1)(a)]**

4. On November 20, 2012, the Department received an Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

**Start of Construction [OAR 690-315-0080(1)(b)]**

5. Senate Bill 300 (1999 legislation) eliminated the requirement that holders of new surface water and ground water permits start construction on water projects within one year after the Department issues the permit. Senate Bill 300 applies to any application for a permit filed after October 23, 1999.

**Duration of Extension [OAR 690-315-0080(1)(c) and (1)(d)]**

*Under OAR 690-315-0080(1)(c),(d), in order to approve an extension of time for quasi-municipal water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.*

6. The remaining work to be accomplished under Permit G-16281 consists of completing construction of the water system, including constructing a water treatment plant,

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<sup>1</sup> ORS 537.230 applies to surface water permits only.

<sup>2</sup> ORS 537.630 applies to ground water permits only.

<sup>3</sup> ORS 537.010(5) applies to surface water and ground water permits.

extending the distribution system to service the entire place of use, and applying water to full beneficial use.

7. As of October 1, 2012, the permit holder had appropriated 0.17 cfs of water from Well 2 (JACK 31339) authorized under Permit G-16281 for quasi-municipal purposes.
  8. In addition to the 0.17 cfs of water authorized under Permit G-16281, Shady Cove Waterworks holds the following rights:
    - Permit S-54348 for 109.0 AF of water, being 9.0 AF from Second Pump Station Pond and 100.0 AF from Lost Creek Reservoir within the Rogue River Basin; *[water from runoff and Red Lick Creek is stored in Second Pump station Pond under Permit R-14319]*
- Shady Cove Waterworks's permits total 0.17 cfs of ground water and 109.0 AF of surface water. Shady Cove Waterworks has made beneficial use of 0.17 cfs of water under Permit G-16281 and 4.4 AF of water under Permit S-54398.
9. Shady Cove Waterworks's peak water demand within its service area boundaries was 6.3 AF in 2012.
  10. According to the Shady Cove Waterworks, in 2012, 18 households were connected to the water system. The population within the service boundary of Shady Cove Waterworks was 41. Shady Cove Waterworks anticipates 350 connections in 2016 and estimates the population to increase at an calculated estimated growth rate of 74.3 percent per year, reaching an estimated population of 800 by the year 2016.
  11. According to the Shady Cove Waterworks, their peak demand is projected to be approximately 109 AF of water by the year 2016.
  12. Full development of Permit G-16281 is needed to meet the present and future water demands of Shady Cove Waterworks, including emergency use.
  13. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2016, to complete construction and to accomplish the application of water to beneficial use under the terms of Permit G-16281 is both reasonable and necessary.

**Good Cause [OAR 690-315-0080(1)(e) and (3)(a-g) and (4)]**

*The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0080(3).*

**Reasonable Diligence and Good Faith of the Appropriator [OAR 690-315-0080(3)(a),(3)(c) and (4)]**

*Reasonable diligence and good faith of the appropriator must be demonstrated during the permit period or prior extension period as a part of evaluating good cause in determining whether or not to grant an*

*extension. In determining the reasonable diligence and good faith of a quasi-municipal water use permit holder, the Department shall consider activities associated with the development of the right including, but not limited to, the items set forth under OAR 690-315-0080(4) and shall evaluate how well the applicant met the conditions of the permit or conditions of a prior extension period.*

14. Actual construction of the well and water system began prior to the deadline specified in the permit. Construction of Well 2 (JACK 31339) began November 11, 1991.
15. The following work was accomplished during the original development time frame under Permit G-16281.
  - Well 2 pump house was rebuilt;
  - A submersible pump on Well 2 was replaced;
  - Water meters was installed on Well 2
  - Monthly water use records were recorded
  - Annual static water levels were measured
16. As of November 20, 2012, the permit holder invested \$85,400, which is 3 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$2,800,000 investment is needed for the completion of this project.
17. As of October 1, 2012, 0.17 cfs of water allowed under the permit has been appropriated for beneficial quasi-municipal purposes under the terms of this permit.
18. The Department has considered the permit holder's compliance with conditions, and did not identify any concerns.

**Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0080(3)(b)]**

19. As of November 20, 2012, the permit holder invested \$85,400, which is 3 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$2,800,000 investment is needed for the completion of this project.

**The Market and Present Demands for Water [OAR 690-315-0080(3)(d) and (5)(a-f)]**

*For quasi-municipal water use permits issued after November 2, 1998, in making a determination of good cause pursuant to 690-315-0080(3)(d), the Department shall also consider, but is not limited to, the factors in 690-315-0080(5)(a-f).*

The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs

of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0080(5)(a-f)].

20. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-16281; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such application for a new water right is submitted. The points of appropriation for Permit G-16281 are not located within a limited or critical ground water area. The points of appropriation for Permit G-16281, located within the Rogue River Basin, are not located within or above any state or federal scenic waterway. The points of appropriation are within areas ranked moderate for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and are located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. The points of appropriation are not in an area listed by the Department of Environmental Quality as a water quality limited stream.

Economic investment in the project to date [OAR 690-315-0080(5)(d)].

21. As of November 20, 2012, the permit holder invested \$85,400, which is 3 percent of the total projected cost for complete development of this project. The permit holder estimates an additional \$2,800,000 investment is needed for the completion of this project.

Other economic interests dependent on completion of the project [OAR 690-315-0080(5)(e)].

22. None have been identified.

Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0080(5)(f)].

23. As described in Findings 7 through 12 Shady Cove Waterworks has indicated, and the Department finds that Shady Cove Waterworks must rely on full development of Permit G- 16281 to meet its present and future water demands.
24. Shady Cove Waterworks projects a population increase of 74.3 percent per year over a 4 year period, being 2012 to 2016.
25. Given the current water supply situation of Shady Cove Waterworks, including current and expected demands, the need for emergency water supply, there is a market and present demand for the water to be supplied under Permit G-16281.
26. The Department has determined that the permit holder of Permit G-16281 is not is not



required to submit a WMCP consistent with OAR Chapter 690, Division 86 as per OAR 690-315-0090(4) and (5); there is no undeveloped portion of the permit and serves a population less than 1000 and the applicant has demonstrated that fewer than five years is necessary to complete construction and apply the water to beneficial use.

**Fair Return Upon Investment [OAR 690-315-0080(3)(e)]**

27. Use and income from the permitted water development project would likely result in reasonable returns upon the investment made in the project to date.

**Other Governmental Requirements [OAR 690-315-0080(3)(f)]**

28. Delays caused by any other governmental requirements in the development of this project have not been identified.

**Events which Delayed Development under the Permit [OAR 690-315-0080(3)(g)]**

29. According to Shady Cove Waterworks, delay of development under Permit G-16281 was due, in part, to the size and scope of the quasi-municipal water system, which was designed to be phased in over a period of years, and the lack of availability of funding to expand the water supply system, the economic downturn, and financial difficulties of the prior owner.

**CONCLUSIONS OF LAW**

1. The applicant is entitled to apply for an extension of time to complete construction and completely apply water to the full beneficial use pursuant to ORS 537.630(1).
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0080(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.630 as required by OAR 690-315-0080(1)(b).
4. The time requested to complete construction and apply water to full beneficial use is reasonable, as required by OAR 690-315-0080(1)(c).
5. Completion of construction and full application of water to beneficial use can be completed by October 1, 2016<sup>4</sup> pursuant to OAR 690-315-0080(1)(d).

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<sup>4</sup> Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use.

6. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and the fair return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the water right permit holder had no control, and the Department has determined that the permit holder has shown good cause for an extension of time to apply the water to full beneficial use pursuant to OAR 690-315-0080(1)(e).
7. In accordance with OAR 690-315-0090(4-5), and as described in Finding 26, above, the Department has determined that the permit holder of Permit G-16281 is not required to submit a WMCP consistent with OAR Chapter 690, Division 86.

**Proposed Order**

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

extend the time to complete construction under Permit G-16281 from October 1, 2012 to October 1, 2016.

extend the time to apply the water to beneficial use under Permit G-16281 from October 1, 2012 to October 1, 2016.

DATED: December 2, 2014



Dwight French  
Water Right Services Division Administrator

*If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.*

**Proposed Final Order Hearing Rights**

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 16, 2015**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.



**Oregon Water Resources Department  
Water Right Services Division**

Water Rights Application  
Number G-16710

**Final Order  
Extension of Time for Permit Number G-16281  
Permit Holder: Shady Cove Waterworks**

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**Permit Information**

**Application File G-16710 / Permit G-16281**

Basin 15 – Rogue Basin / Watermaster District 13

Date of Priority: August 21, 2006

**Authorized Use of Water**

Source of Water: Three wells within the Rogue River Basin  
Purpose or Use: Quasi-Municipal  
Maximum Rate: 0.17 cubic feet per second (cfs)

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**This Extension of Time request is being processed in accordance with  
Oregon Revised Statute 537.630 and 539.010(5), and  
Oregon Administrative Rule Chapter 690, Division 315**

**Appeal Rights**

**This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.**

**Application History**

Permit G-16281 was issued by the Department on January 17, 2008. The permit called for completion of construction by October 1, 2012, and complete application of water to beneficial use by October 1, 2012. On November 20, 2012, Shady Cove Waterworks submitted an application to the Department for an extension of time for Permit G-16281. In accordance



with OAR 690-315-0050(2), on December 2, 2014, the Department issued a Proposed Final Order proposing to extend the time to complete construction to October 1, 2016 and to extend the time to apply water to full beneficial use to October 1, 2016. The protest period closed January 16, 2015, in accordance with OAR 690-315-0060(1). No protest was filed.

### FINDINGS OF FACT

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated December 2, 2014.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to no additional conditions.

### CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0080(3).

### ORDER

The extension of time for Application G-16710, Permit G-16281, therefore, is approved. The deadline for completing construction is extended from October 1, 2012 to October 1, 2016. The deadline for applying water to full beneficial use within the terms and conditions of the permit is extended from October 1, 2012 to October 1, 2016.

DATED: January 23, 2015



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

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If you have any questions about statements contained in this document, please contact Mabelle A Bamberger at (503) 986-0802.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900.

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