

OREGON PUBLIC UTILITIES COMMISSION
ADMINISTRATION LAW JUDGE PATRICK POWER
ATTENTION: PCN-2
SALEM, OR 97308

February 5, 2018

INTERVNER COMMENTS:

DEAR SIR,

To supplement my previous correspondence regarding the PCN-2, please see my attached comments. I respectfully ask that the Public Utility Commission DENY the Tillamook Peoples Utility District's petition for 'Certificate of Public Convenience and Necessity' ('CPCN')

The Tillamook Peoples Utility District has not proposed adequate consideration, mitigation or compensation to meet the minimum standards for meeting Tillamook County Planning goals nor Oregon Statewide Planning Goals.

The proposed easement offered to landowners, the proposed work plan submitted with the CPCN are inadequate and do not provide protection to dairy operations and prime farmlands.

My detailed comments are attached.

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**Before The Public Utility Commission
Of Oregon
PCN-2**

December 12, 2017

**In the Matter of the Petition of
Tillamook People's Utility District
Petition For Certificate of Public Convenience and Necessity**

RE: Written Comments of Eric Peterson

Pursuant to ORS 758.015 and OAR 860-025-0030, the Tillamook People's Utility District ("PUD") has petitioned the Oregon Public Utility Commission (Commission) for a Certificate of Public Convenience and Necessity ("CPCN") authorizing the construction of an 8.6-mile-long overhead transmission line in Tillamook County, Oregon. The PUD must petition the Commission for a CPCN when it determines that condemnation of land is necessary for the construction of an overhead transmission line. The PUD in its CPCN application states that it is in the process of obtaining consent to construct the Transmission Line from property owners along the route.

I, Eric Peterson, as the owner of Bay Ocean Dairy and one of the property owners along the proposed route petitioned to intervene in this case. The proposed 115 kV transmission crosses the Tillamook River at our property with the western structure for securing that crossing proposed to be located on our dairy farm. All of the alternatives routes being considered for the transmission line route have a common crossing location of the Tillamook River at the Bay Ocean Dairy location. Obtaining an easement from Bay Ocean Dairy is the key route easement for the 115- kV transmission line river crossing. No other river crossing has been proposed by the PUD or identified in its work plan submitted as part of the CPCN application. The PUD states in its application for CPCN that the proposed schedule for the Commission's approval will align with the land use permitting process the PUD is undertaking at this time and *"In General, the proposed timing is critical for Tillamook PUD to able to acquire the necessary land rights to move the project forward..."*.

We believe that the application for a CPCN is a prelude for the PUD seeking condemnation of the easement area across Bay Ocean Dairy. The CPCN should not be approved at this time because we believe that the PUD has not been sincere in its efforts to negotiate easements, the application for CPCN is inadequate, the easement document that has been proposed has been structure to the disadvantage of the landowners. The easement documents and transmission project work plan lacks adequate protection for the environment and the prime agricultural lands over which the transmission line will pass. We ask that the Commission not proceed with the CPCN and inform the PUD of its deficiencies and instruct the PUD to make additional and sincere efforts to complete the land right acquisition before seeing a CPCN. Granting a CPCN

provides an unfair advantage to the PUD in negotiating for land rights across Bay Ocean Dairy. My comments will identify the significant deficiencies and lack of understanding that the PUD has regarding easements across dairy properties. The draft easement submitted as an exhibit to the CPCN application is also attached to these comment as evidence of the PUD lack of credible effort to proposed reasonable terms and conditions. I have informed the PUD that the proposed easement is woefully inadequate and its deficiencies reflects the PUD's cavalier attitude and intent regarding construction and operations of the transmission line across Bay Ocean Dairy and other farm lands along the route.

Because of the serious nature of the issues and concerns I have identified regarding the proposed easement and work plan, it would be inappropriate for the Commission to grant the CPCN until the PUD has completed land acquisition and or signed easements with all land owners along the route and completed additional studies and work plans that will adequately protect the prime agricultural lands, dairy operations and sensitive environments along the route. Enclosed with these comments are the follow exhibits:

- a map of the proposed easement through the Bay Ocean Dairy;
- a map of ownership of the tax parcel used for pasture and the tide lands along the easement route;
- the draft easement language provided to landowners by the PUD.

My comments will be directed towards the following specific issues; title and ownership, need for additional environmental studies, inadequate language in the draft easement agreements, and flaws in the proposed work plan. I found the proposed easement and work plan to be insufficient and lacking the specific requirements that are needed to protect the dairy operations and accommodate the unique aspects of operating the Bay Ocean Dairy farm which has very restrictive biosecurity requirements. As evidenced by the PUD's form of easement agreement offered to the landowners, the PUD has not given consideration to the unique agricultural land use, and the related dairy business considerations which will be impacted by the PUD's construction and operations through the dairy farms along the route. The proposed easements offered to landowners lacks the detailed stipulations regarding construction and operational safe guards for the impacted dairy lands. Because these dairy lands are prime farmlands, protected by Oregon Statewide Planning Regulations, it would not be in the "public interest" to approve the CPCN as the PUD's current work plan and easement format does not protect the prime farmland and dairy operations along the proposed route. The following specific comments are provided to elucidate my concerns and objections.

Inadequate Title Assessment: The PUD did not perform adequate title research in its evaluation of ownership along the transmission line in the area of Bay Ocean Dairy. The PUD failed to recognize that Bay Ocean Dairy owns the tide land along its eastern pastures. The PUD has offered a transmission line easement agreement only for Tax Parcel # 1S1023001200, and a road easement for Tax Parcel # 1S1023001900, the dairy's pasture lands. The PUD failed to complete sufficient preliminary title work to identify the Bay Ocean Dairy ownership of the adjacent tide lands. The PUD will not only have to obtain an easement across the pasture lands but also will need to obtain easement rights to cross all of Bay Ocean Dairy's submerged tidal land. This is significant flaw in the route analysis as these tide lands are in the area of the key Tillamook River Crossing. The Commission should take no action until the PUD can provide to

the case record, evidence, that it has conducted sufficient title research to understand the ownership and any subordinations that may exist along the transmission route. It would be inappropriate to issue a CPCN at this time, simple because the PUD requested that “... *the proposed timing is critical for Tillamook PUD to able to acquire the necessary land rights to move the project forward...*” when the title work contains such serious flaws and omissions.

Lack of Biological Inventory: Bay Ocean Dairy is located near the confluence of the Tillamook River and Trask River and the Tillamook Bay Estuary. The dairy has significant ornithological resources. The Tillamook Bay supports almost 25% of the northern and central coast wintering waterfowl populations (USFWS Web site) and according to the 2001 Audubon December Bird Count there were approximately 7,500 waterfowl of 34 species in and around Tillamook Bay. Several species of waterfowl have been seen using the Bay Ocean Dairy property for foraging and resting including Canadian Geese, Dusky Geese, Northern Pintail, Mallards, Coots, Teals, Golden Eyes, Merganser, Great Egret, Surf Scoters, Buffleheads and Great Blue Heron. Also, the large isolated old growth trees in the Bay Ocean Dairy pastures near the transmission route are frequent roosting locations for Bald Eagles, Red Shoulder Hawks and Kites. The supporting documents to the CPCN submitted by the PUD, does not include a biological inventory of species and nesting along the route and does not include an assessment of threaten and endangered species. The work plan does not include an assessment of impacts of the transmission line will have on flying patterns of ornithological resources which frequent the area and does not include an evaluation of potential for bird collisions. The work plan does include line markers and use of Edison Electric Institute’s Avian Power Line Interaction Committee standards, but does not address the potential for modification of flight patterns, resting areas and feeding areas along the Tillamook River and the adjacent dairy and storm water drainage reserve. The Commission should request the PUD provide further information documenting that it has conducted an adequate biological inventory and consultation with the U.S. Fish and Wildlife Service and Oregon Department of Wildlife.

Inappropriate Easement Language: A draft form of easement agreement was submitted by the PUD as part of its CPCN application. This form of easement agreement is evidence that the PUD has not given consideration to the unique land use, and dairy farm business considerations and dairy operations that will be impacted by the construction of the transmission and operations maintenance will have on the dairy farms along the route. The proposed easements that the PUD offered to landowners, lacks detailed stipulations regarding construction and operational safe guards for the impacted dairy lands. In the current format, these easement agreements submitted as part of the CPCN application would not be in the “public interest” because the current work plan and easement format does not protect the prime farmland and dairy operations through which the proposed easement passes. The following comments are provided to elucidate our concerns and objections. The proposed easement contains several terms and conditions that are inappropriate, reflect a lack of understanding of the impacts that transmission line construction and maintenance can have a dairy operations and grant to the PUD rights that are incompatible with dairy operations. This draft language reflects the PUD’s total misperception regarding impacts and the Commission should require that the PUD present appropriate language that reflects its obligations under any right of entry to protect the dairy operations.

Easement Language Example 1:

The Grantee (PUD) will have the right to *"...cut, trim and control the growth by chemical means machinery, or otherwise, of trees, shrubbery and vegetation located with the Easement Area..."*. The use of chemicals to control vegetation is not compatible with dairy operations. The use of herbicides and other chemicals can easily contaminate the milk. The insistence of this language be in the easement demonstrates that the PUD has not given adequate consideration of the type of business (e.g. dairy farming) that will be impacted by the transmission line easement.

Easement Language Example 2:

"The Grantee (PUD) shall not be responsible for the maintenance or restoration of any landscaping (e.g. grass, trees, plants, flowers, branches, shrubs, etc.) in the Easement Area or on any other portion of the Grantor's property or adjacent lands." The draft easement language contains other paragraphs which states that the PUD will have the right to control vegetation within and adjacent to the easement. Therefore, the PUD has to be responsible for restoration of any impacts and maintenance of that restoration, for lands within the Easement Area and adjacent to the easement area which are impacted by the PUD, its contractors and subcontractors. This is just one example of the inconsistency between the work plan submitted to the Commission as an exhibit to the PUD's application for CPCN and the binding legal document the PUD expect landowners sign.

Easement Language Example 3:

"The Grantor (e.g. Bay Ocean Dairy, its owners and successors in title) agree to not make any objection to the above applications..." (e.g. other permits and approvals required for the transmission line) ..., *"or to oppose them in any way at any time."* This language is unacceptable and compromises our legal rights to comment on the permits and approvals required for the subject transmission line which are open to public comment and legal processes. We feel that this language, inserted into an easement document, is a suppression clause, and is inconsistent with the public process required by the Commission and restricts our free speech and public participation rights.

In general, I found the Draft Easement to be too broad as to the purpose and use of the Easement by the PUD and PUD's definition of "Facilities". The Draft Easement states that is for a perpetual and exclusive easement and right-of-way the purpose of which is to *"construct, operate, maintain, repair and replace utility lines and facilities"*. I do not object to this stated purpose as it relates to the 115 kV transmission line. I do object to easement language that grants addition rights to the PUD such as *"or distribution of electrical power and any related system and facilities but not limited to conduits, wire, cables, handholes, manholes, connection boxes, transformers and transformer enclosures (collectively, "Facilities) on and across or under..."* the Easement. Also, the Route Diagram and other materials distributed by the PUD at public meetings identifies the type and size of transmission poles that will be construction in the Easement on the Bay Ocean Dairy as "steel poles with under-build". This implies that the purpose of the Easement is for not only the proposed 115 kV transmission but also other yet undefined lower voltage distribution system facilities which may include transformers and enclosures and possible a distribution substation with the Easement Area. The PUD in its October 31, 2017 letter to us stated that the PUD is siting a 115- kV transmission line from the BPA Tillamook Substation to a new substation in Oceanside. This letter makes no mention of sub-distribution or under-build wire. The draft Easement would grant unto the PUD addition

rights to install and construct “facilities” which are not pertinent to the primary purpose of the Easement which is for a 115- kV transmission line from the BPA substation to Oceanside. If the PUD wants to have an all-encompassing easement for multiple purposes, it should clearly state that is their intent in all public disclosures, hearings and applications. It is disingenuous to propose a high voltage transmission line (115 kV) corridor, which is claimed to be essential for the public’s convenience and necessity and then require in the easement language granting additional rights for “facilities” which were not including in the purpose and need justification in the Petition for Certification of Public Convenience and Necessity with the Oregon Public Utilities Commission or discussed with regard to other land use permits with Tillamook County and other state and local permits that may be necessary for the construction of the proposed transmission line. Therefore, the easement language is unacceptable as it is too broad in its definition of the grant of a right-of-way and allowed facilities within the easement. It appears that the PUD is attempting to secure through its “*under build*” design and easement agreement definition of “*facilities*” a future capability to utilize the Tillamook River Crossing for facilities yet to be defined. If it is the PUD’s intent to use the CPCN to facilitate condemnation of land along the route, then their intent should be clearly stated so that landowners are informed as to the proposed purpose and facilities and any future use of the easement.

Aesthetic Impacts: Bay Ocean Dairy lies along Bay Ocean Road which is the scenic entry way for the popular Three Capes Scenic Loop drive. The pasture lands of Bay Ocean Dairy form the back drop of the first mile of the Scenic Loop from the Tillamook River Bridge to Cape Meares. There are no high voltage transmission lines and towers in this area of Tillamook County. The proposed transmission line will have an adverse effect on the property value of the Bay Ocean Dairy because it will introduce an industrial visual element into the scenic landscape. This property is not only our business but it is also our home and the rural, non-industrial, bucolic landscape is an essential element of our quite enjoyment of the property and a key element of the properties long term real-estate market value. The application for CPCN does not address visual impact, contains no simulations regarding sensitive visual landscapes such as Tillamook River Crossing and Bay Ocean Road and Bay Ocean Dairy pastures which are the scenic backdrop to Three Capes Scenic Loop. Also, the compensation offered by the PUD does not consider this impact on Aesthetic and lifestyle and therefore is not acceptable.

Biosecurity and Access Control Issues: Bay Ocean Dairy has implemented a biosecurity program as a set of specific management practices that protects people, animals and ecological systems against disease and other biological threats. It is founded on three basic management practices, sanitation, isolation and traffic control.

Disease outbreaks on dairy farms can be devastating to both animal welfare and farm profitability, with losses in terms of reduced output, increased replacement costs, veterinary costs and labor requirements. Bay Ocean Dairy employs biosecurity management programs to help prevent, or reduce the risk of disease such as contagious mastitis, from entering and spreading in their herd. Bay Ocean Dairy is one of only a few dairy operations in Tillamook, Oregon that has successfully implemented a biosecurity program on their farm because of its relative isolation from other farms. The Bay Ocean Dairy is bounded by State Highway 131 and Bay Ocean Road to the west and south and by the Tillamook River along its eastern boundary. A non-farm, residential property is located along its 344 feet north boundary. There are no other contiguous and adjacent farm operations. The nearest dairy farm is on the east side of

the Tillamook River. This isolation allows the Bay Ocean Dairy to operate as a closed herd, i.e. no outside cows are brought into the dairy and the Bay Ocean Dairy herd has no immediate contact with other cattle across fence lines. The in-house breeding program generates pure bred Jersey dairy cows when combined with the extraordinary high-quality pastures, high quality feed, low stress cow herding and closed herd isolation results in the high protein and high butter fat milk which is essential for successful economic operations. By controlling the health of the animals and their movement, the risk of having diseases introduced to the farm is reduced. A closed herd with its own replacement is the highest level of biosecurity control. Reducing the diseases entering a dairy farm means less time is spent treating diseases, veterinary costs are reduced, and herd productivity is not compromised.

A key element in the Bay Ocean Dairy biosecurity program involves good sanitary management practices for people on the farm, with strict rules for visitors and their vehicles and good hygiene at all levels. Sanitation and disinfection is extremely important. Everything on the farm and entering the farm needs to be kept as clean as possible; equipment, environment, clothing etc. Mechanical cleaning and the use of disinfectants are routinely used to reduce pathogen levels. To reduce the risk of disease spreading between cows, a manure management system is in place, which has been designed to adequately, store, remove and spread cow manure and liquids. Because the Bay Ocean dairy has limited area, all pastures are critical to its successful operations, not only for grazing, also for spreading of manure and liquid animal waste and barn storm water drainage. A strict regime of management is in place for sanitary management. Pasture rotations are critical to successful operations and all pastures are used for herd management and manure management.

The introduction of a perpetual easement, with unconditional access, will significantly affect the quality control of the Bay Ocean Dairy's biosecurity management and adversely affect the farms national reputation for production of high protein and high butter fat values. It has taken decades of breeding and farm improvements to achieve a local and national reputation for pure bred Jersey dairy cows that typically are sold to a national market for over \$10,000 per head. The Bay Ocean Dairy is in the top 6% of cheese yield production in Tillamook County. Bay Ocean Dairy is a high value milk producer because it maintains an inhouse breeding program, biosecurity program and low stress herding program. The draft easement language provided by the PUD does not recognize the unique qualities of this prime farmland dairy and its extraordinary dairy operations. The PUD's draft easement language contains no provisions for the protection of the dairy herd or the daily operations. The scope of easement proposed by the PUD poses a clear and significant biosecurity threat to the quality of the Bay Ocean Dairy. The easement language does not address the potential for PUD construction and operations equipment transferring pathogens and noxious weeds from other dairy operations onto the Bay Ocean Dairy pastures. PUD equipment and contractor equipment operating along the transmission route, other areas of Tillamook County and other regions could very easily transfer noxious weeds, pathogen laden manure and other transferable disease vectors on equipment and work boots. Easements and rights of entry onto unique and sensitive dairy operations such as Bay Ocean Dairy cannot be treated with a cavalier attitude and boiler plated easement language which only favors the PUD and ignores the essential safety, biosecurity and quality control practices which are part of Bay Ocean Dairy's daily operations. The Commission should direct the PUD to reassess its easement language before it considers the CPCN as the legal obligations and entry right of the easement are not acceptable and need to be completely

redrafted to reflect the PUD's obligations regarding biosecurity and operations protocols for entry into the Easement Area. Biosecurity is not only a concern of Bay Ocean Dairy, it is a serious issue that could affect all dairy operations in the county.

General Design Issues: The following comments address general design consideration which the PUD has failed to adequately address in its application for CPCN.

Easement Area: The proposed 100-foot-wide easement area identified in the work plan is appropriate for the general width of a 115-kV transmission line but may not adequately address construction impacts at each transmission pole location, especially at those locations where significant foundations may be needed.

Construction Area: The draft easement and work plan submitted with the application for CPCN does not address requirements for additional area beyond the 100-foot easement for construction of structures. Bay Ocean Dairy prefers that the construction of these structures and the access road to be confined to the easement area. The draft easement language and the work plan does not address or provide construction details for pole structures and foundations and does that address the PUD's obligations for safety, environmental compliance and reclamation of construction areas.

Pole Size, Number and Type: The preliminary information provided by the PUD regarding the route and structures indicates that two transmission line structures will be constructed within the easement across Bay Ocean Dairy which will be a minimum of 24-inch diameter steel monopoles. These poles are most likely undersized and the preliminary route design information is misrepresentative with regard the construction and structural requirements for steel tube mono-poles in this area of the route. The preliminary design involves a span of approximately 1,250 feet across Bay Ocean Dairy pasture. This distance is significant with respect to standard 115 kV transmission line pole spacing. The structure adjacent to the river dike will need to be over 100 feet tall in order to span the approximate 1,480 feet across the Tillamook River. The structure to be located near Bay Ocean Road will need to take into account the significant change in aspect for the transmission line conductors to account for stress caused by the elevation change from 9 foot above mean sea level at Bay Ocean Road to an approximate 337- foot elevation for the angle point along the route west of the Bay Ocean Dairy on the Stimson Lumber Company lands. Both of these structures will require significant caissons with steel rebar reinforced foundations. The construction of these foundations, particularly the one near the river dike will require significant dewatering. We request that additional detailed engineering be provide which accounts for the significant span distances and structural pressures that will need to be accounted for in the line design. There is insufficient information regarding how these foundations will be installed, the area required for the equipment to construct the line, disposal of dewatering fluids, disposal of excavated material and the necessary construction operations area. Also, geotechnical drilling will most likely be needed to adequately design the foundations and pole size for these critical transition points along the transmission line route. Because there is a long span between the two pole structures, a long span river crossing at the east end of the easement area and a significant elevation changes at the west end of the easement area, the final design hyperbolic catenary formulas may result in changes in pole height, size and the number of pole structures. The height of the poles will most likely be over 100 feet in order to span the Tillamook River. There is a lack of information regarding the dead-end requirements for this section of the

transmission line particularly with respect to the river crossing requirements.

River Dike: The proposed transmission line design calls for a 100-foot steel monopole to be constructed near the Bay Ocean Dairy's river dike. This dike is an essential flood control feature for the Dairy and the County and the PUD has provided no information regarding how it will assure the integrity of this important earth dike. Construction of the pole foundation, dewatering, equipment operations in this area all threaten the integrity of the dike. Also, the size and location of this pole could affect the Bay Ocean Dairy's ability to safely maintain this dike which is inspected by the Dairy after every major flood event and if necessary, repaired with heavy equipment including excavators. The placement of a transmission line across this critical flood control feature must take into consideration the maintenance requirements of the dike and how equipment will be able to operate or are restricted in their operations because of the high voltage safety requirements. The Commission should require the PUD to produce appropriate design information and assurances that the integrity of this dike not be undermined and the PUD will assure the stability of the river dike.

Guy Wires: The preliminary design does not show guy wires on the Bay Ocean Dairy, but it does show guy wires at other key angle points and dead-end location along the route. In general guy wires are incompatible with farm operations, cows are attracted to them for rubbing and there is always potential for equipment such as harrowers, cutters, and bailer can clip the guy anchors. There appears to be insufficient detailed information in the CPCN application regarding the size, height and foundation requirements of the pole structure to accurately describe the final transmission line design and guy wire requirements. This information is essential for farmers to make an informed decision about potential impacts to the dairy's operations,

Additional Construction Access: The PUD has proposed a separate construction and access route which will not be located within the primary easement. The PUD proposes a construction and maintenance road through the center of the Bay Ocean Dairy barns, over the top of our primary liquid drainage collection tank, over the primary milking parlor entry way, along the primary cow walk way to the feed and milking barns and through key pastures used for daily herding of the dairy cows. The PUD has proposed this route in order to access the transmission easement and pole structures near the river dike and avoid a drainage ditch crossing along the easement route. This additional construction and access route is not acceptable to Bay Ocean Dairy as it will introduce construction and maintenance vehicle operations into the center of the dairy's primary cow walk way to the milking barns and a large area of our pastures and be a major disruption to daily operations and create a high stress situation for the dairy cows which in turn will affect milk production. The work plan should have address the ditch crossing and any associated permitting requirements. Bay Ocean Dairy will not allow access for construction and maintenance of the transmission line through its dairy barn road. PUD made no attempt to understand impacts to the dairy operations as exemplified by the proposed construction access route through the farm's primary milking operations area. The PUD should have proposed to confine its operations to the transmission route easement area and address all impact, permits and approvals necessary to facilitate that transmission route crossing the drainage slough along the route and associated access routes off of Bay Ocean Road. The proposal to locate an access road through the primary barns, milk parlors and cow walk ways of the dairy is inconceivable bad and demonstrates a total lack of technical understanding as to the impact

that the PUD's construction and maintenance operations would have on Bay Ocean Dairy. The Commission should find that the work plan with regarding the Bay Ocean Dairy segment of the route is insufficient, lacks appropriate safeguards for biosecurity and potentially damaging to the Bay Ocean Dairy economical operations.

Bridging and Culverts: Because Bay Ocean Dairy will insist that construction and maintenance access will need to be confined to the easement area, and that no additional access routes will be allowed, a bridge or culvert will be needed to cross the drainage ditched in the pasture area within the easement and the work plan should have included design elements to address this crossing and the Commission should find that the work plan is insufficient. The work plan should have included this bridge and the plan to obtain all necessary permits and approvals for impact the drainage area and any associated wet lands.

Entrance off Bay Ocean Road: Construction of an improved entrance to the easement area off of Bay Ocean Road will be necessary and that entry will require construction of a rocked entry, culvert and gate. The Work Plan submitted with the CPCN does not address new pasture gates, the design, and rock apron requirements. At Bay Ocean Dairy, the PUD will need to construct a new driveway entrance for the easement. The new driveway should include a gravel entry apron and culvert at the entry onto Bay Ocean Road. This entry should be constructed to meet Tillamook County and State of Oregon Department of Transportation specifications for a farm entry onto a state highway and will need to include a stabilized construction access to reduce the tracking of mud and dirt onto Bay Ocean Road. Dairy Farmers in Tillamook County take care to not track mud onto state and county roads. The work plan does not address the need for stabilized rock entry. Such a stabilized entry will have to be constructed between the pavement of Bay Ocean Road the new entry gate to the easement area. The easement and the work plan don't include a safe entry plan for egress from Bay Ocean Road and other public roads, does not include a stabilized construction access area at the entry off of public roads, and does not include safe guards for mud tracking on to public roads. Commission should find that the work plan is insufficient.

Gates: New gates will be needed along the transmission line route across multiple ownerships. The PUD should be required to install new and permanent 16-foot Powder River (metal tube) gates at all pasture entries such as the entry of the easement off Bay Ocean Road. Gate along public roads such as Bay Ocean Road should be placed outside of the public Right of Way and sufficiently back from the road shoulder for farm vehicles to safely park off of the public right-of-way in order to open and close the gate without intruding out into the public right of way. All gates should be equipped with dual lock mechanisms that would allow the landowner and the PUD to unlock the gates. The work plan does not include consideration for safety and security of land owners pastures. High value milk cows are worth over \$10,000 per head. Security of our fences and gates in an important consideration and the PUD's easement and work plan are insufficient regarding this most fundamental land entry condition.

Easement Access Road Construction Requirements In Active Pastures: Construction of the transmission line across Bay Ocean Dairy will require the construction of an access road along the line route and easement which crosses pasture areas used by the dairy's daily operations. Access roads across pastures should be constructed for dual use as an access road to the poles structures and as a cow path for dairy operations. As such, the final surface should be construction to meet cattle pathway requirements which includes a road crowned with small

rounded gravel and silt mix which will not cause hoof splitting and bruising. Angular and large rocks are serious threats to hoof health on dairy farms. The PUD's work plan does not address how access roads across dairy pastures will be constructed to minimize impacts on dairy cattle movement. The work plan and easement does not address cow safety. Movement of vehicles within the perimeter of the dairy farms fences needs to be restricted as to location, speed and consideration of dairy cows found in the pastures. The work plan discusses the need to access but does not address impacts on pasture fencing, gates and cow walkways, cow safety and therefore the work plan and mitigation programs are insufficient.

Cross Fencing: Construction and maintenance operations will require that Bay Ocean Dairy, isolate its cows from the PUD operations during construction and routine maintenance. This will be a common concern for all farms impacted by the construction of the transmission line. In the case of Bay Ocean Dairy, a new cross fence will be required to segregate the easement area from the rest of the dairy pastures. Additional gates will be necessary along this isolation fence to allow herding of cows between other pasture units in the area of the easement. The need for cross fencing, isolation fencing gating and general impacts on pasture lands is not addressed in the route design. The pole locations are identified in the work plan but the pasture fencing, gates and cow walkways are not discussed and therefore the work plan and mitigation programs are insufficient.

General Operations Issues: The following comments are regarding the general operating stipulations that should be included in easements across dairy operations and specifically Bay Ocean Dairy. The PUD needs to recognize that the transmission line easements will cross through frequently used pastures that are used by dairy cows for daily foraging and these pastures are an integral part of dairy farm operations. The following recitals should be incorporated into and made a part of stipulations for approval of the CPCN which set minimum conditions of use by the PUD in dairy farm areas, limit the PUD's right of entry and recognize landowners rights of continued farm use.

- PUD shall not interfere with any of Grantor's active farming operations without the express permission of the landowner/Grantor.
- Landowners should have the right to use the easement area for grazing, vehicle travel, cattle herding, tilling, planting, harvesting, tile drainage, irrigating, fertilizing, manure spreading and other day to day farming activities.
- The PUD shall operate within the easement area only and will at all times take due care for the safety of cows using the pasture.
- PUD will include a gravel entry apron and culvert at the entry onto public roads. Easement access entry shall be constructed to meet Tillamook County and State of Oregon Department of Transportation specifications for a farm entry onto a state highway and will include a stabilized construction access to reduce the tracking of mud and dirt onto public roads This stabilized rock entry will be constructed between the pavement of the public road and the entry gate to the easement area.
- PUD shall install new 16-foot Powder River (metal tube) gate at the entry of the

easement and gates shall be placed outside of the public Right of Way and tie back to the pasture fences. The gate will be placed sufficiently back the public roads that a typical farm vehicle can park off of public road while opening and closing the entry gate.

- PUD shall provide double lock mechanism to hold both PUD and Landowner gate locks such that either party may open and lock the gate.
- Access across pasture lands should be a minimum of 10-foot wide and consist of an all-weather rock travel path along the easement. Access roads shall consist of sufficient rock to allow passage during normal wet weather conditions. The road shall be constructed of non-angular rock or capped with 12 inches of rounded river rock with 15% clay material. Cap material should encompass the entire road profile from pasture grass edge to pasture grass edge to provide a suitable surface for the cows to walk on. The materials used should be able to compact into a hard, smooth, wear resistant surface with a road crown and be well compacted such that water will run off, and not puddle. The road material should consist of well -rounded granular material which will not cause hoof damage. It should not have sharp stones which can cut the hooves and should be free of loose larger stones which can cause hoof bruising.
- PUD shall repair all pasture fences and pastures damaged by the construction of the gated entry, construction of the easement road, and construction of transmission line facilities.
- PUD shall provide Landowners prior notice of entry and use of the easement, for regular routine maintenance, to allow Landowners to move cows from the affected pasture.
- Landowners should be required to cooperate with PUD during emergency maintenance to remove cows from maintenance operations areas.
- PUD will shall ground all fences that cross the easement or run parallel to the easement.
- PUD shall construct the transmission line of sufficient height to allow for cattle trucks and farm equipment to pass safely beneath the lowest sage of transmission line conductors.
- PUD should be required to bond the restoration of pasture areas affected by construction of transmission line, poles and access road by smoothing out all ruts and reseeded the affected pasture. The seed mix shall be similar to the grass used in the existing pastures.
- PUD should be responsible for noxious weed control along the easement and not be allowed to use chemicals to control vegetation or weeds along the easement in dairy farm areas.

Right of Termination: The Commission should require that the PUD complete the transmission line within 5 years of granting the CPCN. The CPCN should terminate if the PUD fails to construct the transmission line in a timely manner. The CPCN should terminate if the PUD fails

to operate the transmission line (e.g. failure to energize the transmission line) for a continuous period of 5 years. If the PUD fails to operate the transmission for a period of 5 years then it should be deemed abandoned and the PUD should be required to reclaim the transmission line and all related facilities and access routes.

Reclamation: The Commission should require that the PUD to post a reclamation bond for construction reclamation. The Oregon Energy Facilities Siting Council routinely requires other entities to post reclamation bonds for similar facilities. The PUD should be required to complete all construction reclamation with the easement area with 6 months of energizing the transmission line and post bonds to assure that post construction reclamation is completed in a timely manner. If the transmission line is abandoned, the CPCN should require that the PUD reclaim the easement area within 6 months of termination of the easement, including removal of all structures, cables and foundation and repair and replanting of pasture areas.

Indemnification: The draft easement submitted as part of the PUD's application for CPCN does not include any discussion of the PUD providing indemnification for its activities. By not doing so, the PUD places farms and their insurance policy in the position of being financially liable for the PUD's actions. The Commission should require the PUD, its agents, representatives, employees, contractors and subcontractors indemnify, landowners, entirely free and harmless from all liability for any loss, damage, cost or injury of other persons and from all cost and expenses arising from any claims or demands of other persons concerning any loss damage, or injury caused by the PUD, its agents or designees. The landowners, representatives, employees, contractors and subcontractors should not have liability for any loss, damage, or injury of any kind or character to any person or property arising from the construction and operations of the transmission line and all operations by the PUD within the easement area, or caused by or arising from any act or omission of the PUD or any of its agents, employees, licensees, or invitees or by or from any accident, fire, other casualty arising from the construction and operations of the transmission line or occasioned by the failure of the PUD to maintain the transmission line and easement area in safe condition.

Hazardous Materials: The draft easement and work plan submitted as part of the PUD's application for CPCN does not include discussion of hazardous materials, handling, spills, clean up and limitation of liability to land owners. The Commission should require the PUD to indemnify, defend, protect and hold harmless the landowners, their employees, agents, partners and their representatives, heirs and successors in interest, free and harmless from any claim from damage, action suit, proceeding, loss, cost, liability, deficiency, fine, penalty, punitive damages or expense, including without limitations attorneys' and consulting fees, investigation and laboratory fees, court cost and litigation expenses or any liability of any kind, based on the presence of hazardous materials in, under, on or about the Property and easement which were brought on to the Property and easement by the PUD or permitted to be brought on to the Property and easement by PUD, its agents, contractors and subcontractors.

Insurance: The draft easement and work plan documents submitted as part of the PUD's application for CPCN does not include any discussion of Insurance. The approval of the CPCN should require the PUD, maintain a Commercial General Liability Insurance policy insuring the PUD and Landowner against loss or liability caused by PUD's use of the easement and any activities on the Property and to name Landowner as an additional insured. The amount of said coverage shall have a minimum of initial combined occurrence and annual limitations per land

owner of Two Million and 00/100 Dollars (\$2,000,000).

Assignment: The draft easement submitted as part of the PUD's application for CPCN does not include any discussion of assignment. Dairy operations are just like other businesses which require loans, collateralization and land sale. The CPCN should assure that the Landowner shall at all times have the right to sell, assign, encumber or transfer all of part of its rights under this Easement and that the Easement will be appurtenant to the land.

Purpose and Need Justification for Right of Condemnation of Private Property

The PUD in its petition for CPCN, makes the point to remind the Commission of its governing statutes and that the Commission must consider the *"necessity, safety, practicability and justification in the public interest of the Proposed Transmission line"* (ORS 758.015(2)). The PUD also points out in its statement of Purpose of the Proposed Transmission Line (page 7 of the Petition for CPCN) out that Commission has *"delegative terms"* and *"a great deal of discretion to construe and apply the in the context of the laws and policies governing condemnation of private property"*. My comments have pointed out that the PUD has failed to adequately address the threshold requirements for justifying a CPCN by providing land owners with narrowly drafted form of easement agreement which significantly disadvantages land owners along the route and does not provide for the safety of the dairy operations and does not offer a work plan or other safeguards and stipulations that would meet the criteria for *"practicability"*. The PUD has failed in the case of Bay Ocean Dairy to conduct property preliminary title research of ownership of submerged tide lands over which it has proposed the transmission line. This is particularly relevant in that under OAR 860-025-030 (1)(c) the application for CPCN is to provide spatial information regarding the lands involved. All alternative routes identified in the application for CPCN cross over this common location, the Bay Ocean Dairy, its pastures and submerged tide land. The PUD's petition for CPCN does not identify the lands that will specifically be condemned along the route. It is obvious, that the one parcel that is key to all alternative routes is the Tillamook River Crossing at the Bay Ocean Dairy. It will significantly disadvantage Bay Ocean Dairy's ability to negotiate easement terms and compensation if the Commission proceeds with CPCN under circumstances where the PUD has failed to provide reasonable easement terms and safe and practical work plan conditions and failed to demonstrate that it is in the public's interest to negatively impact dairy operations along the route.

Compliance with Statewide Planning Goals

Under OAR 860-025-0030(2) the Commission must adopt findings of land use compatibility. The PUD has failed provide sufficient evidence that it will protect prime farmlands and most importantly the unique aspects of dairy farm operations along the transmission route. The PUD's petition for CPCN states that it meets Statewide Planning Goal 3, Agricultural Lands, because it has *"conducted a thorough study to determine whether the line would have any significant impacts on farm practices and determine that no such impacts would exist. This Goal is therefore satisfied."* There is a total lack of consideration of biosecurity issues and lack of details on impacts to dairy herding and operations in the petition for CPCN documents and there is a lack of applicable terms and conditions in the draft easement that would address typical dairy farm operations. The Commission should review information in these comments as evidence that Goal 3 has not been satisfied. The PUD did not conduct a visual analysis or

evaluate of the visual impacts of crossing the Tillamook River and did not evaluate the visual impact of placing a high voltage and industrial transmission line in a significant scenic open space of Bay Ocean Dairy which is the entry to the Three Capes Scenic Loop. Therefore Goal 5, Open Space Scenic and Historic Areas and Natural Resources has not been satisfied. The PUD did not conduct biological inventories along the transmission line and has not completed consultation with the U.S. Fish and Wildlife Service and State Department of Fish and Wildlife regarding use of the route by threatened and endangered species, and other avian species which use the Tillamook River and estuary area, Bay Ocean Dairy pastures and tidelands which are critical habitat and flight passage areas. Therefore Goal 5 and 6, Air, Water and Land Resources have not been satisfied. The Bay Ocean Dairy allows pre-qualified, select, franchised hunting on the pasture and river dike in the area of the proposed route. The Tillamook River in the area of the proposed route is a major fishing site for local anglers. The PUD's petition for CPCN does not evaluate impacts on local hunting and fishing in the area of the Tillamook River Crossing and therefore does not demonstrate compliance with Goal 8 Recreational Needs. The PUD's petition for CPCN states that it meets Goal 9, Economy of the State by providing reliability of electric service. The intent of Goal 9 does not grant one economic activity special overriding rights to negatively impact another economic activity. The lack of safeguards and mitigations for dairy operations is evidence that the PUD has not satisfied Goal 9.

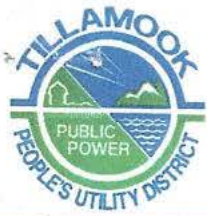
Conclusion

For the reasons stated in these comments, I respectfully request that the Commission deny the PUD's request for expedited approval of a CPCN and ask the Commission request the PUD satisfy our operational concerns and cure the deficiencies of its petition for CPCN. The Commission should not consider the CPCN until the PUD has shown it has obtained the necessary land rights for the easement. It is disingenuous for the Commission to grant a CPCN to the PUD so that it can use the condemnation powers that are derived from the CPCN to provide leverage in negotiations of easement conditions and compensation. Particularly in light of the facts that the PUD has not made a good faith effort to provide assurances for biosecurity and compatibility with dairy operations as evidenced by the poorly drafted easement documents that the PUD filed with the Commission in support of its petition for CPCN.

Also, I have notified the PUD that the proposed compensation is not acceptable and significantly undervalues the unique values of Bay Ocean Dairy and its high value dairy operations. The location is unique because it has aesthetic value, ecological values, and high value dairy breeding and milk production values which the PUD has not given adequate consideration. Granting the PUD condemnation empowerment that is commensurate with the CPCN is inappropriate while the PUD has not made a serious offer for the easement. I want the Commission to understand that I am willing to grant an easement, but only under terms and conditions that truly reflect the risk to our operations, the devaluation of our property and provides stipulations that protect our dairy herding, breeding and milk production programs.

Sincerely *Eric J. Peterson*
Loretta Peterson

Eric and Loretta Peterson
140 Bayocean Rd.
Tillamook, OR. 97141
503-842-5276



Article #3

Tillamook People's Utility District

Directors
Harry E. Hewitt
Edwin L. Jenkins
Doug Olson
Ken R. Phillips
Barbara A. Trout

A Customer-Owned Electric Utility

Office: 503 842-2535 • Toll-free: 800 422-2535 • Fax: 503 842-4161 • www.tpud.org

Todd Simmons
GENERAL MANAGER

October 31, 2017

ERIC PETERSON
105 BAYOCEAN RD
TILLAMOOK, OR 97141

Dear ERIC;

Tillamook People's Utility District (District) has proposed the siting of a 115-kilovolt transmission line from Bonneville Power Administration's Tillamook Substation to a new substation in Oceanside. The specific route of the transmission line follows a corridor identified in 2015 by the Citizen's Advisory Group. Construction of the project is planned for the summer of 2018 through 2019.

The District has applied for a Conditional Use Permit from Tillamook County, which will permit construction and operation of the proposed Tillamook to Oceanside Transmission line. In part because it received notice from some property owners objecting to the transmission line, the District has also submitted a petition with the Oregon Public Utility Commission (PUC) seeking a Certificate of Public Convenience and Necessity. You may be contacted by the County or see notices from the PUC in the near future as part of a formal notice process for these applications.

County records indicate that you own properties within the corridor for the proposed transmission line route and an easement will need to be obtained from the property owner. The District wishes to continue working with you to obtain an easement from you for the tax lots where you are identified as the property owner. Enclosed is a map of the tax lots showing the approximate area of the proposed easement, pulling and tensioning area and temporary access road that will be needed for construction.

Tax Lot	# of Power Pole Locations	Proposed Easement width	Proposed Easement Length	Proposed Easement Square Footage	Proposed Temp Road Square Footage
1S10230001200	2	100'	1,139'	113,825	7,341
1S10260000900	Temporary Access Road.				20,547

The transmission line is a critical project for the District. When complete, the project will maximize reliability to homes and businesses located in the central Tillamook valley, increase electric service reliability to the communities of Netarts, Oceanside and

ERIC PETERSON

October 31, 2017

Re: Tillamook to Oceanside Transmission Line

Page 2

#3 cont.

customers west of the City of Tillamook, add system capacity to the central Tillamook valley, and allow the District to replace aging infrastructure without multiple extensive outages.

The District wishes to extend an offer of \$16,101 for the easement and temporary access road. The value of the easement is based on 150 percent of the County's assessed real market value of the land, applied to the proposed area of the easement and the temporary access road. This offer is made in lieu of having to hire a property assessor to determine the value of the easement, which is typically only a portion of the value of the land, representing the level of impact to the existing use of the property.

While the easement will put some restrictions on the property, the District believes there will be only minor impacts to the existing use of the property specific to the area where the power poles will be located. The property owner will retain ownership and can continue to use the property as it has been used. Future use may be restricted to prevent unnecessary interference with the operation or maintenance of the transmission line. The easement will also include ingress and egress rights and temporary access that will be needed during construction. Site conditions will be returned to as close to existing conditions as possible once construction is completed. The cost of any reseeding that may be required, will be included as part of our offer price and will be performed by the property owner.

At this time the District is seeking a level of understanding between you as the property owner and the District. If you are agreeable in principle to the offer, please check the appropriate box on the enclosed form, and sign and return it in the enclosed envelope. Your signature does not give away any of your rights nor does it provide consent to the District for anything. It just provides a level of understanding that will be used to finalize the easement once the required permits are issued, likely in the spring of 2018. The enclosed easement includes the minimum terms required by the District to accommodate the transmission line. We are willing to negotiate more specific concerns to accommodate needs specific to you or your property, and we are open to input and comment regarding the exact details and language of the easement.

If you would like more information regarding this project, please visit our website at www.tpud.org/projects.

If you have any questions, please contact KC Fagen at kcfagen@tpud.org or (503) 815-8628.

Sincerely,

TILLAMOOK PEOPLE'S UTILITY DISTRICT



KC Fagen
Engineering Manager
Enclosures

AFTER RECORDING, RETURN TO:
TILLAMOOK PEOPLE'S UTILITY DISTRICT
P. O. Box 433
Tillamook, OR 97141

GRANTOR: [GRANTOR NAME]
[GRANTOR'S ADDRESS]
[CITY/STATE/ZIP]

EASEMENT

_____ ("Grantor") for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, grants to **Tillamook People's Utility District**, an Oregon people's utility district ("Grantee"), and to its successors or assigns, a perpetual and exclusive easement and right-of-way, the purpose of which is to construct, operate, maintain, repair and replace utility lines and facilities, including, but not limited to, lines for the transmission or distribution of electrical power, and any related system and facilities, including but not limited to conduits, wires, cables, handholes, manholes, connection boxes, transformers, and transformer enclosures (collectively, "Facilities") on, across, over, or under a strip of land in Tillamook County, Oregon, Township ___, Range _____ of the Willamette Meridian, Section ___, and more particularly described as follows:

[Insert Description].

("Easement Area.") Grantor further grants the right to enter, access, inspect, and make repairs, changes, alterations, improvements, removals from, substitutions, and additions to the Facilities as Grantee may from time to time deem advisable, including, by way of example and not by way of limitation, the right to increase or decrease the number of conduits, wires, cables, handholes, manholes, connection boxes, transformers and transformer enclosures; to cut, trim and control the growth by chemical means, machinery, or otherwise, of trees, shrubbery and vegetation located within the Easement Area (including any control of the growth of other vegetation in the easement area which may incidentally and necessarily result from the means of control employed); to fell or trim any trees or brush located on Grantor's land adjoining the above described Easement Area which may, in Grantee's discretion, pose a hazard to the operation of the Facilities within the Easement Area; to keep the Easement Area clear of all buildings, structures or other obstructions; and the right of ingress and egress over and upon any portion of the property of Grantor adjoining the Easement Area which the District determines is necessary or desirable to use in order to exercise the rights granted in this Easement, as well as the right to remove natural or man-made obstructions which the District determines will interfere with the District's exercise of the rights granted in this Easement. Grantee shall not license, permit or otherwise agree to the joint use or occupancy of the poles, lines, system or, if any of said system is placed underground, of the trench and related underground facilities, by any other person, association or corporation without Grantor's express written consent.

[IF EASEMENT AREA HAS EXISTING STRUCTURES: Notwithstanding the foregoing, Grantor's buildings and other structures that exist on, under, or within the Easement Area as of the date below are permitted to remain; Grantor also may replace such existing buildings and other structures in the event of destruction, provided that such construction complies with all applicable laws and regulations and does not expand the size of the building or structure, and Grantor obtains the written consent of Grantee.]

Grantor agrees that all poles, wires, and other Facilities including any equipment, installed in, upon or under the above-described lands at the Grantee's expense shall remain the property of the Grantee, removable at the option of the Grantee.

Grantee shall not be responsible for the maintenance or restoration of any landscaping (e.g., grass, trees, plants, flowers, branches, shrubs, etc.) in the Easement Area or on any other portion of Grantor's property or adjacent lands.

Because governmental approvals may be necessary from the land-owning Grantor for Grantee to use the easement, Grantor appoints Grantee as Grantor's attorney-in-fact, agent, and authorized representative, to make and progress on Grantor's behalf, any and all land use and regulatory requests and to make applications and requests to governmental entities and agencies, so Grantee may make use of this easement and all associated rights, including but not limited to the following: (1) applying for conditional use permits and progressing those applications through to completion and any modifications thereof, including defending the applications and appealing adverse decisions; and (2) applying for any other necessary governmental and administrative approvals and progressing them through to completion and any modifications thereof, including defending the applications and appealing adverse decisions. Grantor agrees not to make any objections to the above applications, or to oppose them in any way at any time. Grantor may not revoke these appointments during the effective period of this easement. All Grantee's applications and work shall be at its sole cost and expense.

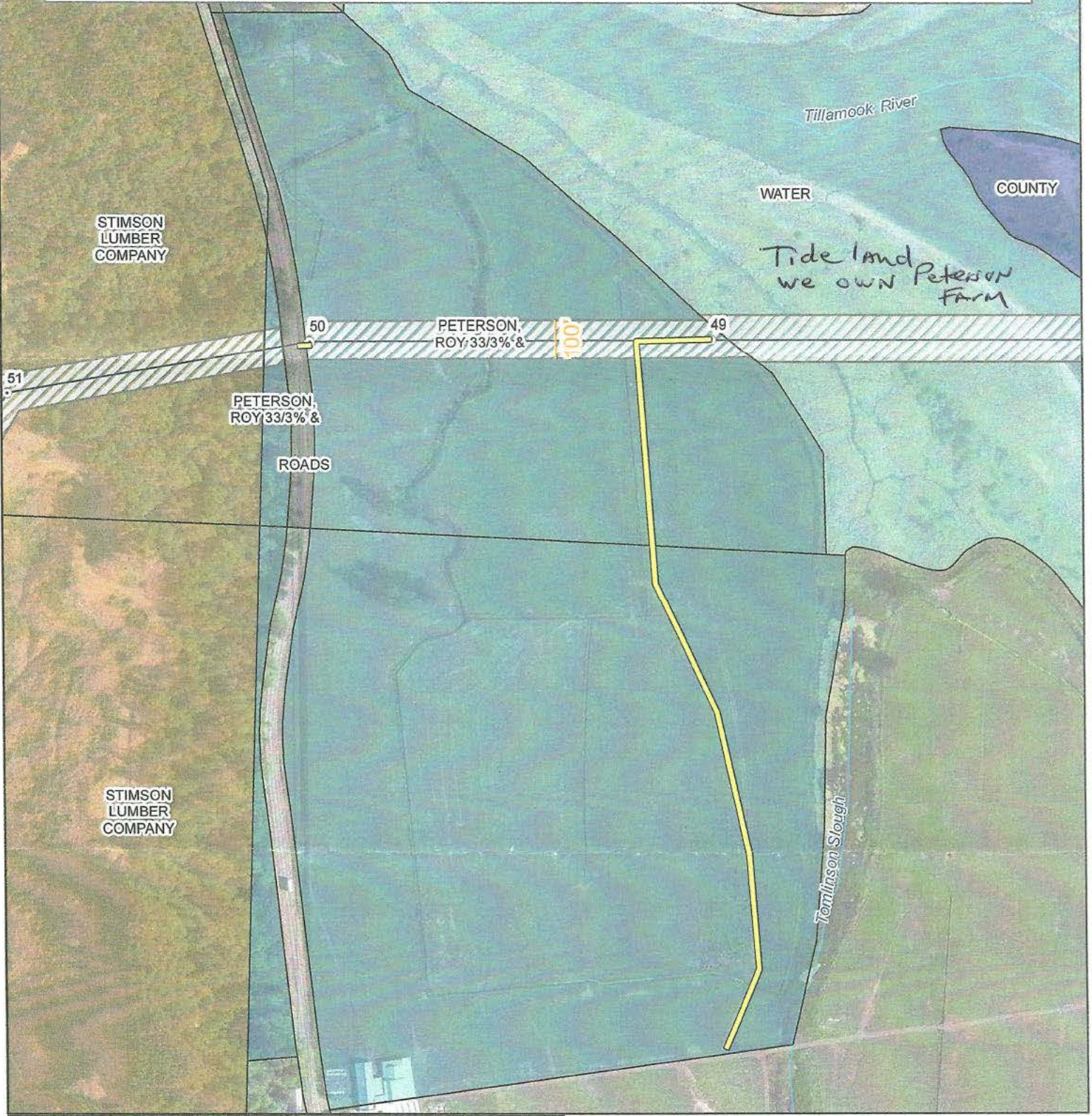
Grantor covenants that Grantor is the owner of the above-described lands and that the said lands are free and clear of encumbrances and liens of whatsoever character except those listed below, if any.

DATED this _____ day of _____, 20__.

On 12/6/2017 ,at 3:30pm, went to the Tillamook County Tax Assessment office where Eric met with Wendy Schink, GIS Analyst, she told Eric 'YES' , that Eric and Loretta Peterson, Peterson Dairy - own the tideland'.

8

Tillamook/Oceanside Transmission Line Proposed Easement Area for PETERSON, ROY 33/3% &



MAP KEY		
	Approximate Distance	
	Permanent Road	
	Temporary Road	
	Structure Locations	
	Tax Lot Boundary	
	Transmission Centerline	
	Proposed Easement Area	
	Oceanside Substation Location	
Property Owner		
	ALLEN, CHAD	
	AUFDERMAUER, BARBARA L TRUSTEE	
	CITY OF TILLAMOOK	
	COUNTY	
	GREEN CROW CORPORATION	
	HOGAN, DAVID & RITA	
	PETERSON, ROY 33/3% &	
	RAILS	
	ROADS	
	ROCHA, JODY M &	
	SMITH, BRYCE W	
	STIMSON LUMBER COMPANY	
	TILLA-BAY FARMS INC	
	TILLAMOOK PROPERTY INVESTMENTS	
	TILLAMOOK PUD	
	TOBIN, BELEN	
	TRASKVIEW FARM, INC	
	U S A	
	WATER	

Origination: Tillamook PUD
 Date: October, 2017
 Data Sources: Tillamook County GIS, DOGAMI

Disclaimer: This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.



SECTION 26.T1

FIRST AMERICAN TITLE



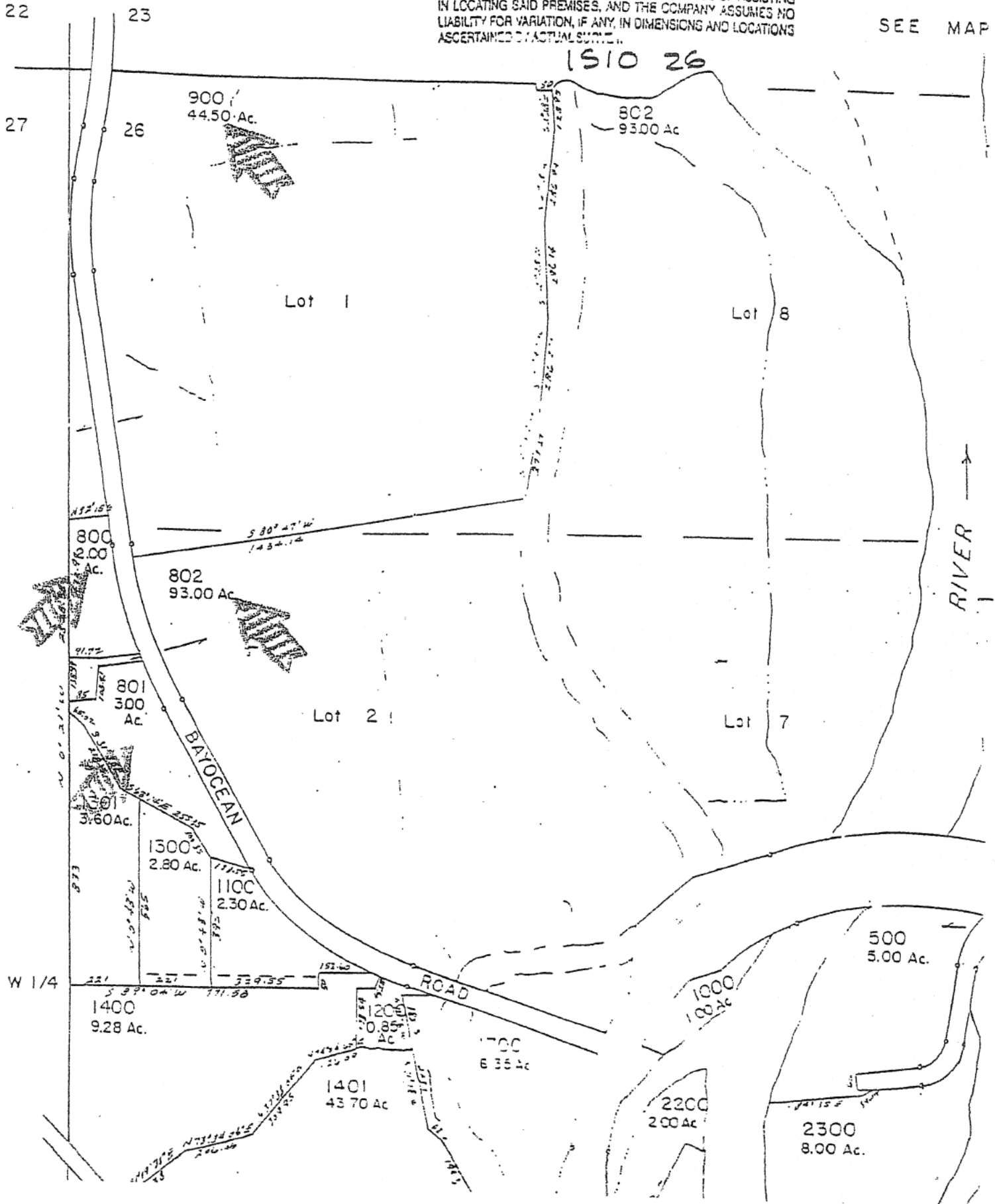
TILLAMOOK

1" = 4

THIS SKETCH IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING SAID PREMISES, AND THE COMPANY ASSUMES NO LIABILITY FOR VARIATION, IF ANY, IN DIMENSIONS AND LOCATIONS ASCERTAINED BY ACTUAL SURVEY.

SEE MAP

1S10 26



SEE MAP IS. 10

EXHIBIT A

PARCEL I: Government Lots 11 and 12 of Section 23, Government Lots 1, 2, 7 and 8 and all that portion of Government Lot 3 lying North of the County Road in Section 26, and all that portion of Government Lot 4 and all of the Southeast quarter of the Southeast quarter of the Southeast quarter of Section 22, lying East of the County Road and South of the dike along or near the Northeasterly line of said Government Lot 4 and Westerly to or toward said County Road, together with all tide lands fronting and abutting said Lot 4, LESS, however, the following:

Tract I: Beginning at a point that is North 12.57 feet and East 771.48 feet of the quarter section corner between Section 26 and 27, Township 1 South, Range 10 West of the Willamette Meridian, said point being on the East-West centerline of said Section 26 and running thence North 89° 04' East along said Section centerline, 300.04 feet to the intersection of the Southwesterly line of the right of way of the Bayocean Market Road No. 4; thence North 71° 29' West along said Southwesterly line of said right of way 160.39 feet; thence along the arc of a 666.6 foot radius curve to the right 166.95 feet, the long chord bearing North 64° 16' West 166.53 feet; thence South 0° 56' East 128.17 feet to the point of beginning.

Tract II: Beginning at the Section corner common to Sections 22, 23, 26 and 27, Township 1 South, Range 10 West of the Willamette Meridian, Tillamook County, Oregon; thence North 2° 01' East 898.51 feet along the Section line between Sections 22 and 23 to the North line of the Tillamook County Bayocean Market Road No. 4; thence Northwesterly along said road right of way to a point that is North 17° 54' West 749.52 feet, said point being the intersection of said road right of way and the center of an existing dike; thence following said dike South 88° 16' East 103 feet; thence South 54° 10' East 149.9 feet; thence South 30° 29' East 171.5 feet; thence South 50° 51' East 261.3 feet; thence South 44° 15' East 148.1 feet; thence South 61° 49' East 284.3 feet; thence South 50° 22' East 304.4 feet; thence South 48° 09' East 297.3 feet; thence South 51° 32' East 244.5 feet; thence South 33° 21' East 242.7 feet; thence South 2° 28' East 265.4 feet; thence North 87° 32' East 50.00 feet; thence leaving said dike and following in a slough South 2° 28' East 128.93 feet; thence South 6° 18' West 286.94 feet; thence South 2° 23' East 296.14 feet; thence South 5° 40' West 286.27 feet; thence South 9° 47' West 277.27 feet; thence leaving said slough South 80° 47' West 1434.14 feet to the Section line between Sections 26 and 27 said Township and Range; thence North 0° 16' West 1540.7 feet to the point of beginning, LESS, County road right of way, all situated in Sections 22, 23 and 26, Township 1

South, Range 10 West of the Willamette Meridian, Tillamook County, Oregon, all that part of land lying between the center of said dike described and the Tillamook River lying North of the North line of Section 26.

Tract III: Beginning at the quarter section corner between Sections 26 and 27, Township 1 South, Range 10 West of the Willamette Meridian and running thence North $0^{\circ} 48'$ East 833 feet, more or less, to the center of a creek running Southeasterly from said point; thence following the center of said creek South $49^{\circ} 09'$ East 65.02 feet; thence South $31^{\circ} 30'$ East 218.15 feet; thence South $63^{\circ} 14'$ East 255.35 feet; thence South $29^{\circ} 53'$ East 100.34 feet; thence South $74^{\circ} 35'$ East 138.55 feet; thence South $41^{\circ} 58'$ East 307.89 feet; thence South $0^{\circ} 56'$ East 123.67 feet to the quarter section line running East and West through said Section 26; thence West along said quarter section line South $89^{\circ} 04'$ West 771.58 feet to the point of beginning. Subject to county road covering portions of said tracts. ALSO EXCEPTING any portion in the State Highway.

Tract IV: That portion of Government Lot 7 in Section 26, Township 1 South, Range 10 West of the Willamette Meridian which is bounded on the East by the West bank of the Tillamook River; on the West by the Easterly right of way boundary of the Tillamook to Netarts State Highway, as said right of way is located at this date; on the South by the centerline of the Tillamook to Bayocean Market Road No. 4 leading to the former bridge approach; on the North by the intersection of the aforesaid Highway right of way with the Westerly bank of the Tillamook River. TOGETHER WITH all the tidelands fronting and abutting said lands. LESS any portion in the County Road, all in Tillamook County, Oregon.

PARCEL II: Beginning at the Section corner common to Sections 22, 23, 26 and 27, Township 1 South, Range 10 West of the Willamette Meridian; thence North $2^{\circ} 01'$ East 898.51 feet along the Section line between Sections 22 and 23 to the North line of the Tillamook County Bayocean Market Road No. 4; thence Northwesterly along said road right of way to a point that is North $17^{\circ} 54'$ West 749.52 feet, said point being the intersection of said road right of way and the center of an existing dike; thence following said dike South $88^{\circ} 16'$ East 103 feet; thence South $54^{\circ} 10'$ East 149.9 feet; thence South $30^{\circ} 29'$ East 171.5 feet; thence South $50^{\circ} 51'$ East 261.3 feet; thence South $44^{\circ} 15'$ East 148.1 feet; thence South $61^{\circ} 49'$ East 284.3 feet; thence South $50^{\circ} 22'$ East 304.4 feet; thence South $48^{\circ} 09'$ East 297.3 feet; thence South $51^{\circ} 32'$ East 244.5 feet; thence South $33^{\circ} 21'$ East 242.7 feet; thence South $2^{\circ} 28'$ East 265.4 feet; thence North $87^{\circ} 32'$ East 50.00 feet; thence leaving said dike and following in a slough South $2^{\circ} 28'$ East 128.93 feet; thence South $6^{\circ} 18'$ West 286.94 feet; thence South $2^{\circ} 23'$ East 296.14 feet; thence South

5° 40' West 286.27 feet; thence South 9° 47' West 277.27 feet; thence leaving said slough South 80° 47' West 1434.14 feet to the Section line between Sections 26 and 27 said Township and Range; thence North 0° 16' West 1540.7 feet to the point of beginning, LESS county road right of way, all situated in Sections 22, 23 and 26, Township 1 South, Range 10 West of the Willamette Meridian, Tillamook County, Oregon; all that part of land lying between the center of said dike described and the Tillamook River lying North of the North line of Section 26, LESS that tract of land conveyed to Dale Russell et ux, by deed recorded August 3, 1970 in Book 220 at page 189 Tillamook County Records.

SAVE AND EXCEPTING from the parcels set forth above, the following described tract: Beginning at a 5/8 inch iron bar in an existing fence line which is North 1002.00 feet and East 83.33 feet from the West Quarter Section Corner of Section 26 in Township 1 South, Range 10 West of the Willamette Meridian in Tillamook County, Oregon; thence South 89° 04' West 91.72 feet to the section line; thence along the section line, North 0° 28' 48" West 430.97 feet; thence North 82° 15' East 161.44 feet to the apparent centerline of Bayocean County Road; thence Southeasterly along the centerline of said Road 430 feet, more or less, to a point which is North 81° 04' East from the point of beginning; thence South 81° 04' West 170 feet, more or less, to the point of beginning. (Bearings quoted in this description are True Meridian at USC&GS Station "Bridge-1955").

RESERVING, HOWEVER, unto James Pallin, Caroline Pallin and Lillian Pallin (Life Tenants) for their exclusive use and possession for the lifetime of Life Tenants and the survivor or survivors thereof, unless released by Life Tenants or the survivor or survivors thereof prior to the death of the last of Life Tenants, all that property lying South of the South line of the following described tract: Beginning at a 5/8 inch iron bar in an existing fence line which is North 1002.00 feet and East 83.33 feet from the West Quarter Section Corner of Section 26 in Township 1 South, Range 10 West of the Willamette Meridian in Tillamook County, Oregon; thence South 89° 04' West 91.72 feet to the section line; thence along the section line South 0° 28' 48" East 138.39 feet, thence North 82° 30' East 85.67 feet; thence North 2° 30' East 108.41 feet; thence North 81° 04' East 183 feet, more or less, to the apparent centerline of Bayocean County Road; thence Northwesterly along said centerline to a point which is North 81° 04' East from the point of beginning; thence South 81° 04' West 170 feet, more or less, to the point of beginning. (Bearings used in this description are True Meridian at USC&GS Station "Bridge-1955"). AND ALSO RESERVING unto Life Tenants and the survivor or survivors of Life Tenants sufficient supply of water from water supply system for irrigation and watering livestock for said tract hereinbefore described.