

1  
2 **BEFORE THE PUBLIC UTILITY COMMISSION**  
3 **OF OREGON**

4 WJ9

5 In the Matter of

6 RICE HILL WATER DISTRICT

7  
8 Assertion of Jurisdiction pursuant to  
9 ORS 757.

APPLICATION FOR  
RECONSIDERATION,  
REHEARING AND  
WITHDRAWAL OF  
ORDER NO. 06-675 RE:  
RICE HILL WATER DISTRICT  
(With Corrected Exhibits<sup>1</sup>)

10  
11 **1. INTRODUCTION**

12 **APPLICATION FOR RECONSIDERATION, Rehearing and Withdrawal of Order**

13 This is an application by The Rice Hill Owner's Association, Inc., ("RHOA") by and  
14 through its President, Ellis E. Emory, (and individually to the extent this Order is intended to  
15 apply to him personally - "Emory"),<sup>2</sup> to the Oregon Public Utility Commission ("PUC") to  
16 reconsider, rehearing and withdraw its Order #06-675 ("Order") which asserted Jurisdiction  
17 pursuant to ORS 757 and was issued in the above referenced PUC docket number (#WJ9) on  
18 December 19, 2006. The reasons for this request follow.

19 **2. PROCEDURE**

20 **a. Statutory Authority.** This application is brought pursuant to ORS 756.561 and  
21 OAR 860-014-0095.

22  
23 <sup>1</sup>  
24 This is a corrected original with complete Exhibits 1 through 6, two of which were  
25 inadvertently omitted and 3 through 6, incorrectly numbered. A correct List of Exhibits is on  
26 page 10.

25 <sup>2</sup>  
26 To the extent that PUC Order No. 06-675 is intended to effect Ellis E. Emory individually as  
President of the Rice Hill Owner's Association, Inc., he joins in this application, individually.

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66 CLUB ROAD, SUITE 200  
EUGENE, OREGON 97401  
TELEPHONE (541) 485-0777 • FAX (541) 344-7487 • EMAIL: jahudson@jahudson.com

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**b. Timeliness of Application.** This application is timely as the PUC’s Order was issued on December 19, 2006,<sup>3</sup> and served on the applicant on December 21, 2006 by mailing to Daniel M. Webb and Ellis E. Emory with a letter dated December 21, 2006,<sup>4</sup> by Program Manager, Michael Dougherty. OAR 860-014-0095 allows applications within “60 days from the date of service of an order entered by the Commission.”

**c. Parties.**

**i. Rice Hill Water District (RHWD).** The Order recites that it is applicable to the "Rice Hill Water District" (“RHWD”), however, no legal entity by that name is known to exist.<sup>5</sup>

**ii. Ellis E. Emory and The Rice Hill Owners Association, Inc. (RHOA).** There seems to be confusion as to whether such Order does or should apply to Ellis E. Emory (“Emory”), personally or as the President of The Rice Hill Owner’s Association, Inc., (“RHOA”) and Emory, as neither is named or mentioned in the Order. Without conceding that the Order applies to either, if it does, Emory appears on its behalf as the RHOA’s President, and Emory appears individually only to the extent this Order is intended to apply to him personally.

**iii. Daniel M. Webb (Webb) and Westside Water System (WWS).** Daniel M. Webb (“Webb”) was also served, apparently as the owner and operator of the

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<sup>3</sup> The application would still be timely even if December 19, 2006, was the date of service because February 18<sup>th</sup> was a Sunday and February 19<sup>th</sup> was a legal holiday. OAR 860-013-0037(2) and ORS 187.010.

<sup>4</sup> See attached and incorporated Exhibit 1, a copy of PUC letter of December 21, 2006.

<sup>5</sup> The Oregon Secretary of State, Corporation Division shows no entries for this name or anything which appears close to such.

1 “Westside Water System” (“WWS”) (described below). This is a separate,  
2 distinct and separately operated water system, operated by Webb, which has its  
3 own financial accounting. It does receive water from the RHOA.

4 **iv. West Side Owners (WSO).** Other parties appear to be property owners  
5 or occupiers of properties located on the west side of Interstate Highway 5 at the  
6 Rice Hill Exit 148. It is believed that these are properties which were formerly  
7 owned by Webb and sold to the various West Side Owners (“WSO”) by Webb.<sup>6</sup>  
8 This is an assumption from statements made, but not verified.

9 **v. Rice Hill West Homeowner's Association (“Homeowners  
10 Association”).** Some of the WSOs are members of the Rice Hill West  
11 Homeowner's Association (“Homeowners Association”) through which it  
12 collects fees for the WWS, but not for the RHOA. It may or may not be a party  
13 to this proceeding.

14 **vi. Petitioners to PUC.** The petitioners are believed to be some, but not all  
15 of the WSO.

16 **d. Order No. 06-675, Docket No. WJ9.** The Order from which this application is  
17 made is the PUC’s Order No. 06-675, PUC Docket No. WJ9, which is an order of “Assertion  
18 of Jurisdiction pursuant to ORS 757” as to the RHWD. It was filed on December 19, 2006.

19 **e. Record, Laws, Rules or Policy of the PUC in Support of the Order.** To the  
20 applicant’s knowledge there was no hearing, and the Order was apparently based solely on  
21 review of the petitions of some, but not all of the WSO. The PUC asserts ORS 757, ORS  
22 757.005 and ORS 757.061(6)(b) as the basis for this Order. The PUC file also reveals various  
23 letters from Webb, his attorney or agents, the relevance of which is unknown.

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<sup>6</sup>

26 See attached and incorporated Exhibit 2, a copy of the Douglas County Tax Assessor’s Map  
with the “Rice Hill West Water System” or “WWS” properties on the west side of Interstate Highway  
5 shaded.

3. CHANGES TO ORDER REQUESTED

1 a. **Emory Not Party.** Emory requests reconsideration, rehearing and withdrawal  
2 of the PUC Order to the extent it is intended to or may be construed as applying to him  
3 personally.

4 b. **RHOA.** RHOA requests reconsideration, rehearing and withdrawal of the PUC  
5 Order to the extent this Order is intended to or may be construed to apply to it.

6 c. **RHOA a Separate Water System.** RHOA is a separate and distinct water  
7 supply system from the system which supplies water to Webb (the WSO) and petitioners, and  
8 there is no need or reason to confuse it with the water system which supplies water to the Webb  
9 properties and the WSO and which is maintained as a distinct entity.

10 d. **RHOA is Not a "Public Utility" under ORS 757.005(1)(a)(A).** RHOA is not  
11 a "public utility" as it does not supply water to the public as set forth in ORS 757.005(1)(a)(A).

12 e. **RHOA is Not a "Public Utility" as It Is Excepted under ORS 757.005**  
13 **(1)(b)(B).** Even if RHOA is or would otherwise be a "public utility" as under ORS  
14 757.005(1)(a)(A), it is excluded pursuant to ORS 757.005(1)(b)(B) as "... any industrial  
15 concern by reason of the fact that it furnishes, without profit to itself, ... water ... to the  
16 inhabitants of any locality where there is no municipal or public utility plant to furnish the  
17 same."

18 f. **RHOA, if a "Public Utility" is Exempt from PUC Regulation under ORS**  
19 **757.061.** If RHOA is a "public utility," it is exempt from PUC regulation as a "water utility"  
20 under ORS 757.061 as it serves fewer than 500 customers and is not otherwise subject to  
21 regulation under other subsections of ORS 757.061, notably under ORS 757.061(5) as it does  
22 not and has not charged fees to Webb or WSO, which have their own separate Homeowner  
23 Association fees, which are paid to Webb for his WWS, owned and operated by Webb.

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25 //

26 //

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#### 4. CHANGES REQUESTED WILL ALTER THE OUTCOME

1 The changes requested are fundamental to the basis for the Order and the PUC assertion  
2 of jurisdiction and regulation. The following specifics are noted as to the changes requested  
3 under section 3. *Changes to Order Requested* above:

4 3.a. Emory. Emory should not be named personally, but only as RHOA president, and  
5 this will relieve him of any personal responsibility to see that RHOA, if a regulated water  
6 system, should alone be responsible for compliance.

7 3.b. RHOA. The RHWD is not a defined entity, and if RHOA is not part of that, it need  
8 not be confused with the RHWD, whatever that is intended to mean.

9 3.c. RHOA a Separate Water System. As a separate water system, it will be responsible  
10 only for its own obligations, if PUC regulated.

11 3.d. RHOA is Not a "Public Utility" under ORS 757.005(1)(a)(A). If RHOA is not a  
12 public utility within the meaning of statute, then it is not subject to PUC jurisdiction.

13 3.e. RHOA is Not a "Public Utility" as It Is Excepted under ORS 757.005(1)(b)(B).  
14 Even if RHOA would otherwise be defined as a "public utility," if it is exempt under ORS  
15 757.(1)(b)(B), it is not subject to the PUC jurisdiction.

16 3.f. RHOA, if a "Public Utility" is Exempt from PUC Regulation under ORS 757.061.  
17 If exempt, then RHOA would not be regulated by the PUC.

#### 18 5. GROUNDS FOR RECONSIDERATION, REHEARING AND WITHDRAWAL

19 The PUC Order should be withdrawn as it is not based on sufficient facts and names no  
20 entity to which it could apply. There was no hearing to support this order. If the submissions of  
21 applicants are not sufficient to determine the matter, then a hearing should be held with all  
22 parties allowed to present evidence and arguments. The specific grounds for withdrawal are:

23 a. **New evidence** which is essential to the decision and which was unavailable and  
24 not reasonably discoverable before the issuance of the Order. OAR 860-014-095(3)(a).  
25 Applicants did not even have notice that a petition was filed, there was no hearing, and  
26

applicants were notified only following the issuance of the Order. A summary of the evidence which would be presented follows in the next section.

b. **Error of law or fact** essential to the decision and order. OAR 860-014-095(3)(b). The PUC failed to determine that the RHOA is not a public utility as specified in ORS 757.005(1)(a), and if it would fall within that section, it was excluded under ORS 757.(1)(b)(B). The exclusion was not considered by the PUC. In any event, RHOA should be a water system exempt from regulation under ORS 757.061.

c. **Good cause** for further examination of essential matter for decision. The Order does not even identify the parties or the water system or systems to which it applies. There are two distinctly operated water systems, and these should not be lumped together just because one (the WWS) may be subject to regulation.

**6. FACTUAL BACKGROUND AND BASIS FOR RECONSIDERATION, ETC.**

As set forth above, the PUC Order was filed on December 19, 2006, and was mailed to Daniel M. Webb and Ellis E. Emory with a letter dated December 21, 2006,<sup>7</sup> by Program Manager, Michael Dougherty. The Order recites that it is applicable to the "Rice Hill Water District," however, no legal entity by that name is known to exist, and there was confusion as to whether such Order does or should apply to RHOA (and Emory) as neither is named or mentioned in the Order.

At the informational meeting with Michael Dougherty, PUC Program Manager, on February 13, 2007 in Cottage Grove, Oregon, two entities were identified: The Rice Hill Owners Association, Inc., a not for profit Oregon corporation<sup>8</sup>, and Rice Hill West

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<sup>7</sup> See attached and incorporated Exhibit 1, a copy of PUC letter of December 21, 2006.

<sup>8</sup> "Mutual Benefit with members", Oregon Registry No. 128698-89.

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Homeowner's Association ("Homeowners Association")<sup>9</sup>, is a consortium or association of individual property owners created by a certain Declaration of Covenants, Conditions and Restrictions, recorded in the official records of Douglas County, Oregon, on May 16, 1996, Douglas County Clerk and Recorder Reception No. 96-14065. Of the names and entities used or identified, only the RHOA appears to have any legal status as an entity.

The RHOA was established through a certain *Declaration of Covenants and Restrictions* dated September 21, 1988. It was recorded in Douglas County, Oregon Official Deed Records on September 27, 1988, a true copy of which is attached as Exhibit 5.

Since September 21, 1988, the RHOA owned and operated a certain water supply system and sewage and discharge system in the unincorporated area generally known as Rice Hill, Douglas County, Oregon, which is generally located in the vicinity of Interstate Highway 5 at the Rice Hill Exit No. 148. In 1993 Webb, Emory and the RHOA amended the 1988 Declarations which established the RHOA.

On September 13, 1993, Webb, Emory and the RHOA entered into an *Easement Agreement and First Amendment to Declaration of Covenants and Restrictions* ("Amendment") which was recorded in Douglas County, Oregon Official Deed Records on September 27, 1988, a true copy of which is attached as Exhibit 6. This formed the basis for Webb's separate WWS (see section 6 beginning on p. 24, and especially section 6.(b), p.26).

Webb (who did not appear at the February 13, 2007, PUC informational meeting) is, and has been, the operator and owner of a certain water supply system for certain real property owners on the west side of Interstate 5 at Rice Hill.<sup>10</sup> This water system is the WWS operated by Webb. The State Public Health Department, Drinking Water Program, Department of

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<sup>9</sup> See attached and incorporated Exhibit 2, a copy of the Douglas County Tax Assessor's Map with the "Rice Hill West Water System" or "WWS" properties on the west side of Interstate Highway 5 shaded.

<sup>10</sup> See attached and incorporated Exhibit 3, a copy of Webb's then attorney's, Terrence J. Hammons', letter dated August 3, 1999.

Human Services, Douglas County Environmental Health and Social Services, and Douglas  
1 County Planning Department representatives who appeared at this meeting all stated that their  
2 departments consider and identify the RHOA and the WWS systems as separate entities with  
3 separate and independent responsibilities, even though the water for the WWS is obtained from  
4 the RHOA.<sup>11</sup> RHOA has not received any fees charged by the WWS or the Homeowners  
5 Association.

6 RHOA and the WWS have maintained their own financial records and documents.  
7 Webb has not favored RHOA with his information and has claimed that the WWS is his  
8 exclusive water system and property<sup>12</sup>. Because the informational meeting occurred so close to  
9 the 60 days for compliance with the Order, it was not possible to determine what or who should  
10 respond. As it is, it appears that this may require information from Webb, the Homeowners  
11 Association, and RHOA. As these have operated independently, they should be treated  
12 separately.

## 13 7. CONCLUSION

14 The PUC should withdraw its Order and upon reconsideration it should rule that neither  
15 Emory, individually, nor RHOA are subject to the Order for the reasons that they are not a  
16 public utility as defined by ORS 757.005, and even if RHOA would otherwise be within the  
17 definition of ORS 757.005(1)(a)(A), it is not a public utility within the meaning of this statute  
18 as it is exempt under ORS 757.005(1)(b)(B) and, therefore, it is not subject to PUC  
19 jurisdiction. Even if RHOA is a public utility, it is exempt from regulation under ORS 757.061.

20 The Order also does not define the "Rice Hill Water District" which is not a legal  
21 entity, and, therefore, on its face it is invalid.

22  
23  
24 <sup>11</sup>

25 See attached and incorporated Exhibit 4, a copy of the Oregon DHS, Health  
26 Division, October 5, 1999 letter to Webb's engineer.

<sup>12</sup>

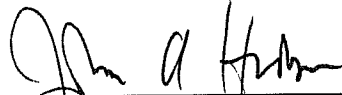
See attached and incorporated Exhibit 3, a copy of Webb's then attorney's,  
Terrence J. Hammons', letter dated August 3, 1999.



1 If there is any factual dispute, then, after reasonable notice, a hearing (there has been  
2 none, yet) should be commenced where evidence can be presented and witnesses can be called.

3 Respectfully submitted this 20 day of February, 2007.

4 The Rice Hill Owners Association, Inc. Ellis E. Emory

5 by   
6 John A. Hudson OSB #74149  
7 of John A. Hudson Attorney at Law, LLC  
8 Attorney for Ellis E. Emory  
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**LIST OF EXHIBITS**

1	<b><u>Exhibit No.</u></b>	<b><u>Exhibit Description</u></b>
2		
3	<u>Exhibit 1</u>	a copy of PUC letter of December 21, 2006
4	<u>Exhibit 2,</u>	a copy of the Douglas County Tax Assessor's Map with the "Rice Hill West Water System" or "WWS" properties on the west side of Interstate Highway 5 shaded
5		
6	<u>Exhibit 3</u>	a copy of Webb's then attorney's, Terrence J. Hammons', letter dated August 3, 1999
7	<u>Exhibit 4</u>	a copy of the Oregon DHS, Health Division, October 5, 1999 letter to Webb's engineer
8		
9	<u>Exhibit 5</u>	<i>Declaration of Covenants and Restrictions</i> dated September 21, 1988, copy
10	<u>Exhibit 6</u>	<i>Easement Agreement and First Amendment to Declaration of Covenants and Restrictions</i> , dated September 13, 1993, Webb, Emory and the RHOA, copy
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# Oregon

Theodore R. Kulongoski, Governor

**Public Utility Commission**  
550 Capitol Street NE, Suite 215  
Mailing Address: PO Box 2148  
Salem, OR 97308-2148  
Consumer Services  
1-800-522-2404  
Local: 503-378-6600  
Administrative Services  
503-373-7394

December 21, 2006

DANIEL M. WEBB  
1800 NW HUGHWOOD AVE APT 318  
ROSEBURG OR 97470-5560

ELLIS E. EMORY  
89140 BRIDGE STREET  
SPRINGFIELD OR 97478

## RE: NOTICE OF JURISDICTION - SERVICE AND FINANCIAL REGULATION

The Commission issued Order No. 06-675 on December 20, 2006, asserting jurisdiction over Rice Hill Water Company (Rice Hill). The order requires Rice Hill to fill appropriate tariffs within 60 days of the date of the order. Because 60 days from the date of the order is Sunday, February 18, 2007, and Monday, February 19, is a holiday, Rice Hill's tariffs are due to the Commission by February 20, 2007.

To help you comply with Order No. 06-675, I have enclosed a Guide for Filing a Water Utility Rate Case and an Application Form for you to complete to establish Rice Hill's rates with the Commission. In addition, I have included a copy of the PUC Water Program General Information binder that contains the Commission's Administrative rules for water utilities, Notice and Petition Requirements, and other useful information for rate-regulated water utilities.

If you have any questions or require assistance in completing the application form, please contact me at the number listed below or contact Renee Sloan at 503-373-7871 or [renee.sloan@state.or.us](mailto:renee.sloan@state.or.us).

Michael Dougherty  
Program Manager  
Corporate Analysis & Water Regulation  
Telephone: 503-378-3623  
Email address: [michael.dougherty@state.or.us](mailto:michael.dougherty@state.or.us)

Enclosures

cc: Marc Hellman, PUC  
Kathy Miller, PUC  
Jason Jones, DOJ  
Ralph Zeller, CPA  
Al Brusenski (Lead Petitioner)

**EXHIBIT 1**

OREGON COMMUNITY FOUNDATION

3655.00

OREGON COMMUNITY FOUNDATION 3655.05

COR. DLC NO. 47  
EASEMENT  
150.00  
185.00

SAL JOHN LONG DLC NO. 47

NW COR. SEE MAP  
DLC NO. 47

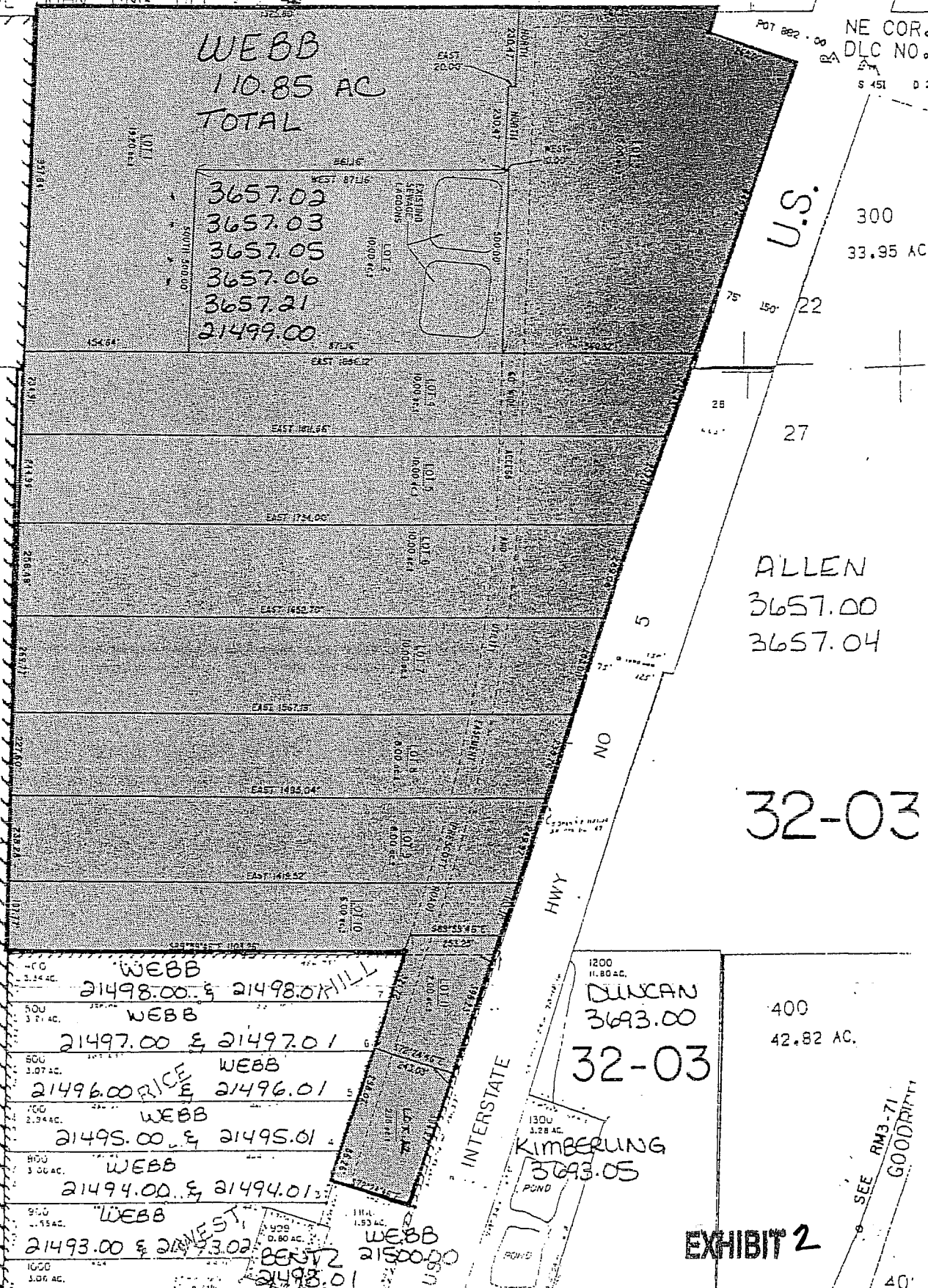
KAY 3653.00

995-92

KAY 3658.04

KAY 3658.00  
3658.05  
3658.06

00



WEBB  
110.85 AC  
TOTAL

3657.02  
3657.03  
3657.05  
3657.06  
3657.21  
21499.00

U.S. 300  
33.95 AC

ALLEN  
3657.00  
3657.04

32-03

DUNCAN  
3693.00  
32-03

KIMBERLING  
3693.05

WEBB 21498.00 & 21498.01  
 WEBB 21497.00 & 21497.01  
 WEBB 21496.00 & 21496.01  
 WEBB 21495.00 & 21495.01  
 WEBB 21494.00 & 21494.01  
 WEBB 21493.00 & 21493.02  
 WEBB 21498.01

EXHIBIT 2

SEE RM3-71  
GOODRIFT

HAMMONS & MILLS

ATTORNEYS AT LAW

EIGHTH & OLIVE BLDG.

115 W. 8TH AVE., SUITE 280

EUGENE, OREGON 97401

TERENCE J. HAMMONS  
DAVID B. MILLS

PHONE (541) 484-1216  
FAX (541) 484-5326

August 3, 1999

MR. SCOTT G. CURRY, P.E.  
REGIONAL ENGINEER  
DRINKING WATER PROGRAM  
OREGON DEPT. OF HUMAN RESOURCES  
HEALTH DIVISION

VIA/FAX: 503-731-0477

RE: Rice Hill West Subdivision

Dear Mr. Curry:

This office represents Dan Webb.

I have before me your letter of June 29, 1999 to Ellis Emory of the Rice Hill Owners Association, together with your letter of June 28, 1999 to Rich Schaff.

Please be advised that Dan Webb is the administrator and declarant of the Rice Hill West Subdivision, and is the sole owner of the water system mentioned in your letter of June 29 to Mr. Emory. Mr. Webb is the one who is developing the system and making the requested corrections. Mr. Emory has absolutely nothing to do with it, nor does the Rice Hill Owners Association. Accordingly, it would be appreciated if you could address your further correspondence directly to Dan Webb at PO Box 188, Yoncalla, Oregon, 97499.

As the attorney for Mr. Webb I am interested in any correspondence you have had from Mr. Emory concerning this issue, either before your letter or in response to it, and I would appreciate it if you could send me copies of any such correspondence if it exists.

Thank you very much for your assistance.

Very truly yours,

HAMMONS & MILLS



Terence J. Hammons  
TJH:sim

cc: Client

EXHIBIT 3

Mike Parker

10/4/99

page 2

water testing responsibilities will consist of quarterly bacteriological tests and a yearly nitrate test.

This public water system is approved, subject to the following condition:

1. Minimum pressure at the water meters shall be 20 psi.

We will activate this water system on our inventory, listing Dan Webb as the contact person. We will soon be sending him a water system identification number, to be used when submitting test results or other correspondence to our office.

Thank you for submitting this information for our review.

Sincerely,



Scott G. Curry, P.E.  
Regional Engineer  
Drinking Water Program

cc: ~~Dan Webb~~

Gerry Meyer, Douglas Co. HD

EXHIBIT 4



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Human Services

Health Division

800 NE Oregon Street # 21

Portland, OR 97232-2162

(503) 731-4030 Emergency

(503) 731-4381

(503) 731-4077

FAX

TTY-Nonvoice (503) 731-4031

October 5, 1999



Mike A. Parker, P.E.  
i.e. Engineering, Inc.  
P.O. Box 1271  
Roseburg, OR 97470

RE: Plan Review # 274-99 / Conditional Approval

Dear Mike:

We have received the following with regard to the water system that is serving the Rice Hill West Subdivision in Douglas County:

1. A letter describing the system layout and operation.
2. The \$250 plan review fee and documentation of land use compatibility.
3. An as-built drawing of the water distribution system.
4. A drawing of the typical customer service line, showing a check valve, flow restrictor, and a 119 gallon pressure tank.
5. Supporting documentation regarding expected flow rates and water pressures.
6. Copies of two bacteriological tests, taken on the same day but at different locations, one of which shows coliform bacteria present.

We understand that this subdivision, with a proposed total of 18 lots, will obtain its water from the adjacent Rice Hill Owner's Association, but will otherwise function as a separate public water system.

Since there are currently four connections to this system, we will activate this as a State-Regulated( or Non-Community) Public Water System on our inventory. When there are 15 connections, the classification will change to Community Water System, with additional water testing requirements.

We have the inorganic chemical analyses for the well water serving this project, so current

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION is made this 21<sup>st</sup> day of September, 1988, by DANIEL M. WEBB and PAULINE A. WEBB, husband and wife, and each of them, individually, hereinafter called Declarants.

WITNESSETH:

WHEREAS, Declarants are the owners of the real property described in the attached Exhibit A and of the Water Supply System and Sewage Discharge System, more fully described in Article I, which serves some or all of said real property, and

WHEREAS, Declarants desire to provide for the preservation and maintenance of the existing Water Supply System and Sewage Discharge System and, to this end, desire to subject the real property described in Exhibit A, together with such additions thereto as may hereafter be made pursuant to Article II hereof, to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and every one of which is for the benefit of said property; and

WHEREAS, Declarants deem it desirable, for the efficient preservation of the Water Supply System and Sewage Discharge System, to have a nonprofit corporation own, operate and maintain the systems and the related facilities; administer and enforce the covenants and restrictions described herein; and collect and disburse the fees, charges and assessments hereinafter created; and

WHEREAS, THE RICE HILL OWNERS ASSOCIATION, INC., has been formed as a nonprofit corporation under the laws of the State of Oregon for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Declarants declare that the real property described in Exhibit A, and such additions thereto as may hereafter be made under Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

## ARTICLE I

## DEFINITIONS

SECTION 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:



a. "Association" shall mean and refer to THE RICE HILL OWNERS ASSOCIATION, INC.

b. "The Properties" shall mean and refer to all the real property described upon the attached Exhibit A, and any additional property which is subject to this Declaration or any Supplemental Declaration under the provisions of Article II, hereof.

c. "Association Properties" shall mean and refer to the real property and easements described in Exhibits B and C, the easements created herein, and any personal property owned by the Association, including, but not limited to, equipment and facilities for the operation and maintenance of the Water Supply System and the Sewage Discharge System.

d. "Lot" shall mean and refer to any parcel of land within the Properties with the exception of the Association Properties.

e. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, or the purchaser of the fee simple interest in any Lot under a land sale contract, but, notwithstanding any applicable theory of a lien, mortgage or trust deed, shall not mean or refer to a lienholder, mortgagee, vendor under a land sale contract, or beneficiary or trustee under a trust deed, unless and until such lienholder, mortgagee, beneficiary or trustee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

f. "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III.

g. "Sewage Discharge System" shall mean and refer to that sewage system commonly known as the Rice Hill West consisting of certain sewer lagoons, pipelines and related personal property serving part of the Properties and certain other real property. The real property on which the sewer lagoons are located, and some of the easements for the sewer pipelines are more particularly described on Exhibit B. Such property and easements shall be conveyed to the Association by Declarants, and such system shall be owned and operated by the Association.

h. "Water Supply System" shall mean and refer to that water system consisting of a well, pipelines and related personal property currently serving some of the Properties. The real property on which the well is located and some of the easements for the water pipelines are described on Exhibit C. Such property and easements shall be conveyed to the Association

by Declarants, and such system shall be owned and operated by the Association.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

SECTION 1. EXISTING PROPERTY. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Douglas County, Oregon, and is more particularly described on Exhibit A, all of which real property shall hereinafter be referred to as "Existing Property."

SECTION 2. ADDITIONS TO EXISTING PROPERTY. Additional lands may become subject to this Declaration in the following manner:

a. The owner of the property not subject to this Declaration may, upon approval in writing of the Association pursuant to a vote of its members, make such property subject to this Declaration and submit it to the jurisdiction of the Association, by recording in the deed records of Douglas County a Supplemental Declaration of Covenants and Restrictions, as described in subsection a. hereof.

b. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the Properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties. No such merger or consolidation, however, shall effect a revocation, change or addition to the covenants established by this Declaration within the Properties except as hereinafter provided.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

SECTION 1. MEMBERSHIP. Each Owner of any Lot which is subject to the Declaration, and which is connected to either the Water Supply System or the Sewage Discharge System shall be a

Member of the Association, provided that any person or entity who holds an interest in such a Lot merely as a lienholder, mortgagee, or beneficiary or trustee under a trust deed shall not be a Member. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot. An Owner may assign the Owner's membership rights, including the voting right described herein, to a tenant occupying such Owner's Lot pursuant to a written lease, if the Owner notifies the Association in writing of the assignment. Such assignment shall expire upon the earlier of the termination of the lease, or the Owner's written notice to the Association of the Owner's intent to resume the exercise of membership rights.

SECTION 2. VOTING RIGHTS. Each Member shall have the right to vote on each matter submitted to a vote of the membership. Each Member shall have one vote for each dollar of the monthly fee assessed by the Association for water or sewer disposal service to property owned by that Member for the month ending immediately prior to the month in which the meeting is held. When more than one (1) person holds a fee interest in a Lot which would entitle its Owner to be a Member, all such persons shall be Members and the votes to which they are entitled by virtue of their interest in the Lot shall be exercised as they among themselves shall decide, but in no event shall more votes be cast for any such Lot than would be cast if all the fee interest were held by one person or entity.

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE ASSOCIATION PROPERTIES

SECTION 1. GENERAL EASEMENT. All conveyances of land in the Properties shall be subject to these covenants and restrictions whether or not the same are expressed in the instruments of conveyance, and each and every such instrument of conveyance shall likewise be deemed to grant and reserve, whether or not the same is declared therein, mutual and reciprocal easements as follows:

a. Over, under and across all portions of the Properties, except such portion as a survey shall show is not needed by the Association for the construction and maintenance of underground water and sewer pipelines or any other utilities and services now or hereafter supplied by the Association, or the storage of supplies and materials in connection with such construction and maintenance.

b. Upon all Association Properties for the construction and maintenance of water and sewer pipelines or any other utilities and services now or hereafter supplied by the Association.

All of said easements shall be for the benefit of and appurtenant to all of the Properties and to all the Association Properties. Said easements and rights of use, however, shall not be unrestricted, but shall be subject to reasonable rules and regulations governing said right of use, as described herein, and as promulgated from time to time by the directors of the Association in the interest of securing maximum safe usage of said easements without unduly infringing upon the property rights of the Owner or occupant of any part of the Properties.

SECTION 2. TITLE TO SEWER LAGOON PROPERTY. The Declarants may retain legal title to the real property described on Exhibit B (Sewer Lagoon Parcel) until such time as Douglas County approves a partition to make the Sewer Lagoon Parcel a separate Lot. The Declarants hereby covenant for themselves, their heirs and assigns that they shall convey the Sewer Lagoon Parcel to the Association forthwith upon approval of such partition. Declarants shall use their best efforts to obtain approval of such partition within a reasonable time after the recording of this Declaration. All other Association Properties and an easement to use the sewer lagoons shall be conveyed to the Association by the Declarants contemporaneously with the recording of this Declaration.

SECTION 3. EXTENT OF OWNERS' RIGHTS. The rights and easements created hereby shall be subject to the following:

- a. The right of the Association, in accordance with its respective Articles and Bylaws, to borrow money for the purpose of improving the Association Properties, and in aid thereof to allow a lien on the Association Properties; and
- b. The right of the Association to take such steps as are reasonably necessary to protect the Association Properties against foreclosure; and
- c. The right of the Association, as provided in its Bylaws, to suspend service to any Owner for any period during which any fee, charge or assessment remains unpaid, or for any period during which the Owner fails to comply with the Association rules established to protect the safe and healthful operation and maintenance of the Water Supply System and the Sewage Discharge System; and
- d. The right of the Association to charge reasonable fees for the use of water, the disposal of sewage, and for the operation, maintenance and improvement of the Water Supply System and the Sewage Discharge System; and
- e. The right of the Association, its agents, employees and invitees, pursuant to its obligations to operate, maintain and repair the Water Supply System and the Sewage

Discharge System, to come upon the Properties, to store supplies and materials on the Properties at reasonable places and for reasonable lengths of time, and to dig up portions of the Properties to gain access to underground pipelines. The Association shall be responsible to restore the general contours of the land and to seed the ground with a suitable ground cover or to replace any pavement torn up as a result of digging necessary to service a pipeline. The Association shall not be responsible to replace any shrubbery, trees, structure or other landscaping or improvement which it is reasonably necessary to remove in order to gain access to a pipeline; and

f. The right of any Owner to connect to the Water Supply System or Sewer Discharge System, subject to the conditions on new connections stated herein, and provided that such Owner pay the Association for any reasonable costs incurred to extend water or sewer lines to such lot.

g. The right of the Association to limit new connections or changes in use to existing connections to either the Water Supply System or the Sewage Disposal System, based on the existing capacity of either system. The Association shall require, at the time of any new connection, or change in use to an existing connection, that the Owner of the property benefited thereby, along with the Owners of other property connected to either system after the date of this Declaration, covenant to pay a pro rata share of the actual cost of expansion of the system to which the property is connected, if and when in the opinion of the Board of Directors such expansion becomes necessary. The pro rata share of each such Owner shall be determined by the Board of Directors at the time of such expansion, and shall be apportioned among such Owners based on the extent to which each such property contributed to the need to expand the respective system; and

h. The right of the Association to limit new connections to the Sewage Discharge System, or changes in use to existing connections, to uses which will be compatible with the operating permit for the system; and

i. The right of the Association to curtail water use in times of water shortages to property connected to the water system after the date of this Declaration in reverse order of the respective date of connection of such property, and to limit certain kinds of uses among existing water users; and

j. The right of the Association to enforce rules against the waste of water, and to require Members to repair leaks and breaks and to take such other steps as may reasonably be necessary to ensure an adequate supply of water; and

k. The right of the Association to contract to provide connections to the Water Supply System and the Sewage

Discharge System to property which is not subject to this Declaration or any Supplemental Declaration, or has not been submitted to the covenants and restrictions herein, but only if such contract is approved by Members entitled to cast two-thirds (2/3) of the votes of the membership, and only if such contract provides that a user who is connected to either system after the date of recording this Declaration shall contribute to the cost of expansion of such system in the manner described in subsection f. hereof; and

l. The right of the Association to hire a manager or other employees, agents or independent contractors; and

m. The obligation of the Association to indemnify its officers and directors to the fullest extent not prohibited by law, and the right of the Association to similarly indemnify its employees and agents; and

n. The right of the Association to dedicate or transfer all or any part of the Association Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, or determination as to the purposes or as to the conditions thereof, shall be effective unless approved by Members entitled to cast two-thirds (2/3) of the votes of the membership, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken.

SECTION 4. MCDONALD PROPERTY. Transfer of the Sewage Discharge System to the Association is subject to the Association's duty to fulfill Declarant's obligations regarding the Sewage Discharge System as disclosed in a deed dated April 1, 1966 (Deed) and recorded in Douglas County records as Instrument No. 66-4373 in which Declarants' are the Grantors and John W. McDonald is the Grantee.

SECTION 5. TITLE TO WELL PROPERTY. If the Association no longer uses the property described on Exhibit C (Well Property) for the operation, maintenance and repair of the Water Supply System, then, forthwith upon written request, the Association shall convey the Well Property to Declarants, their heirs or assigns, without payment of additional consideration to the Association.

SECTION 6. RIGHTS NOT LIMITED. Nothing in this Agreement shall limit the right of any Owner to subdivide, partition, rezone or convey any portion of the Properties, or restrict any use of the Properties which is compatible with the operation, repair, maintenance or expansion of the Water Supply System and Sewage Discharge System.

SECTION 7. FUTURE EXPANSION. Any Owner shall have the right to connect all or any part of such Owner's portion of the Properties to the Water Supply System or Sewage Discharge System provided such Owner complies with all the obligations of Owners herein and subject to the limitations described herein. Declarants intend to develop the real property described as Parcels V and VII on Exhibit A (Expansion Property). Declarants reserve the right to have constructed, at Declarants' expense, an expansion of the Water Supply System and Sewage Discharge System prior to developing the Expansion Property, so that when the Expansion Property is subdivided and the individual lots are sold the Water Supply System and Sewage Discharge System will have the capacity to allow immediate connection by the purchasers of such lots. Any such expansion shall be constructed in such a manner that it shall meet the standards required by all governmental agencies having regulatory approval over the Water Supply System or the Sewage Discharge System. Any addition to either system pursuant to this paragraph shall be made a part of the existing system and shall be governed by this Declaration.

#### ARTICLE V

#### COVENANT FOR FEES, CHARGES, AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION. The Declarants, for each Lot owned by them within the Properties, hereby covenant and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

- a. Monthly fees for the provision of water and/or the right to discharge sewage, and the related costs of providing such service;
- b. Service charges for special services provided to any property; and
- c. Special assessments for capital improvements or repairs.

Such fees, charges and assessments shall be fixed, established, and collected from time to time as hereinafter provided in a nondiscriminatory fashion. The fees, charges and assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each is made. Each such fee, charge or assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the fee, charge or assessment was assessed.

SECTION 2. PURPOSE OF FEES, CHARGES AND ASSESSMENTS. The fees, charges and assessments levied by the Association shall be used exclusively for the purpose of allowing the safe and healthful operation and maintenance of the Water Supply System and the Sewage Discharge System, and for the improvement and maintenance of Properties and facilities devoted to this purpose, and for such other purposes as are authorized herein including, but not limited to, the payment of taxes and insurance thereon, repair, replacement, and additions thereto, the cost of labor, equipment, materials, management, and supervision thereof, the maintenance, operation or improvement thereof and the cost of indemnifying the directors, officers, employees and agents of the Association.

SECTION 3. MONTHLY FEES.

a. Prior to the annual meeting each year, the Board of Directors shall make and approve a budget setting forth the estimated expenses, and costs for the administration, operation, maintenance, insurance and improvement of the Water Supply System and the Sewage Discharge System for the current year. This budget shall be presented at the annual meeting of Members but shall not require approval of the Members.

b. After adoption of a budget, the Board of Directors shall determine a monthly fee for each Lot served by either the Water Supply System or the Sewage Discharge System in an amount necessary to meet the budget for the current year. The secretary-treasurer shall promptly give written notice to each Member of the amount of the proposed fee for each such Lot. In setting the monthly fees, the Board of Directors shall, insofar as possible, attempt to proportion the monthly fee for each Lot to the expected consumption of water by, and the expected discharge of sewage from such Lot; except that no fee shall be apportioned to any real property owned by the Association or to any Lot not connected to either the Water Supply System or the Sewage Discharge System. The Board of Directors may base its fee schedule on actual measures of use as determined by flow meters where available, standard estimates of use published by private utilities or public agencies, or any other method reasonably designed to provide a fair and equitable estimate of use.

c. All fees shall be made based upon an "assessment year" which commences July 1 and ends the following June 30 of each year. However, for the first year after recording this Declaration, the fee schedule shall be set, and shall go into effect, as soon as the Board of Directors can complete the process described in Sections 3.a. and 3.b. From and after July 1, 1989, the monthly fee for each assessment year shall be established by the Association at its annual meeting. If no annual meeting is held in any year, or if the Association does



not establish a fee schedule for the following assessment year at that annual meeting, the fee schedule for that assessment year shall be the same as the proposed fee schedule determined under the provisions of Paragraph 3.b. hereof by the Board of Directors. This provision shall not be construed as prohibiting the Association from modifying its fee schedule at any other meeting if done in accordance with the provisions hereinafter provided.

SECTION 4. SERVICE CHARGES. If, at any time it becomes necessary or advisable in the opinion of the Board of Directors for the Association to provide extraordinary service to one or more Owners including, but not limited to: adding a service connection, repairing a damaged sewer or water line, handling bad checks, clearing clogged sewer lines, or repairing or replacing a service connection; the Association may levy against such Owner and the Owner's Lot the cost of providing such service, including the direct and indirect costs associated therewith, as the Board of Directors may reasonably determine.

SECTION 5. SPECIAL ASSESSMENTS. In addition to the monthly fees and service charges, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the Association Properties, including the necessary fixtures and personal property related thereto, and including any other improvement connected with the operation of the Water Supply System or the Sewage Discharge System; or to cover any other unexpected expenses authorized hereunder, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast, in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than seven (7) days nor more than fifty (50) days in advance and shall set forth the purpose of the meeting.

SECTION 6. CHANGE IN MONTHLY FEES. Subject to the limitations of Article V, Section 3. hereof, the monthly fee schedule, once established by a majority of the votes entitled to be cast at an annual meeting of the Association, may be changed only with the assent of two-thirds (2/3) of the votes entitled to be cast, in person or by proxy, at any other meeting duly called for the purpose of modifying the fees, written notice of which was sent to all Members not less than seven (7) nor more than fifty (50) days in advance of the meeting, and which written notice specified that the purpose of the meeting would include considering a modification of the fees.

SECTION 7. QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 5. AND 6. The quorum required for any action authorized by Sections 5. or 6. hereof shall be the presence at any properly called meeting of Members, or of proxies, entitled to cast fifty

percent (50%) of all the votes of membership. If the required quorum is not present at any such meeting, another meeting may be called, subject to the notice requirements set forth in the appropriate Section hereof, and the required quorum at such subsequent meeting shall be the presence of Members, or of proxies, entitled to cast thirty percent (30%) of all the votes of membership, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 8. DUE DATES. The monthly fees provided for herein shall be due and payable on the first day of each month. Provided, that the Board of Directors may determine another method of payment for any portion of the monthly fees, upon giving of at least thirty (30) days' prior written notice to all Members.

The amount of the fees, charges and assessments which may be levied against any property which is connected to either the Water Supply System or the Sewage Discharge System after the start of the assessment year, shall be determined by the Board of Directors of the Association, based on the estimated use of the system by the new user and the additional costs reasonably expected to be incurred by the Association to connect such property and provide the service. The monthly fee for a new connection for the first month of service shall be prorated for the number of days of service in that month.

The due date and payment terms, if any, of any service charge or special assessment authorized under Sections 4. and 5. hereof shall be fixed in the resolution authorizing such assessment; if not so fixed, the service charge or special assessment shall be due sixty (60) days after the date of such resolution.

SECTION 9. DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors shall prepare the budget as set forth in Article V, Section 3.a. hereof and shall determine the fee schedule as set forth in Article V, Section 3.b. hereof. The Board of Directors shall, within a reasonable period of time after each annual meeting of the Association, prepare a roster of the Properties and the fees, charges and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the amount of the fees, charges and assessments shall be sent to each Owner subject thereto within a reasonable period of time after the same is fixed or determined by the Association.

The Association shall, upon demand at any time, and for a reasonable fee, furnish to any Owner liable for any fee, charge or assessment a certificate in writing signed by an officer of

the Association, setting forth whether such fee, charge or assessment has been paid. Such certificate shall be conclusive evidence of the payment therein stated to have been paid.

SECTION 10. EFFECT OF NONPAYMENT OF FEES, CHARGES OR ASSESSMENTS. THE PERSONAL OBLIGATION OF THE OWNER; THE LIEN; REMEDIES OF ASSOCIATION. If the fees, charges or assessments are not paid on the date when due, then such amount shall become delinquent and shall, together with the interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then Owner, the Owner's heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such fee, charge or assessment shall remain the personal obligation of the Owner and shall not pass to the Owner's successors in title unless expressly assumed by them. No assumption by an Owner's successor in interest shall release such Owner from such obligation, unless the Association shall agree in writing to such release.

If the fee, charge or assessment is not paid within thirty (30) days after the delinquency date, the unpaid amount shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, or the highest rate permitted by law, whichever is lower, and the Association may bring an action against the Owner personally obligated to pay the same, or an action to foreclose the lien against the property in the manner provided by law for the foreclosure of mortgages. If the delinquent fee, charge or assessment is turned over to an attorney for collection, there shall be added to the amount due the interest thereon and the reasonable costs of collection thereof. If any legal proceeding to collect such delinquent fee, charge or assessment is filed, there shall be added to the amount due and the interest thereon, the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the amount due as above provided and a reasonable attorney's fee in such proceeding, or any appeal thereof, to be fixed by the court in addition to the costs and disbursements allowed by law.

SECTION 11. SUBORDINATION OF THE LIEN TO MORTGAGES. The lien of the fees, charges or assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Properties. Any sale or transfer of a Lot pursuant to a decree of foreclosure or any other proceeding in lieu of foreclosure shall not relieve such property from liability for any fees, charges or assessments thereafter coming due, nor from the lien of any such subsequent assessment.

SECTION 12. EXEMPT PROPERTY. The following property subject to this Declaration shall be exempted from the fees, charges, assessments and liens created herein: (a) all Properties

to the extent of any easement or other interest therein dedicated and accepted by a local public authority and devoted to public use; and (b) all Association Properties.

## ARTICLE VI

### GENERAL PROVISIONS

SECTION 1. DURATION. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, unless an instrument signed by the persons then entitled to cast at least two-thirds (2/3) of the votes of the membership of the Association has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless written notice of the proposed agreement is sent to every Owner at least thirty (30) days in advance of any action taken.

SECTION 2. NOTICES. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address, as reflected on the records of the Association at the time of such mailing, of the person who appears as Member or Owner, or the Tenant of such Member or Owner who has been assigned the membership rights of such Member or Owner.

SECTION 3. ARBITRATION. In the event of any controversy between the parties as to the enforcement or interpretation of the terms and provisions of this Declaration, except the right to recover payments due hereunder or the foreclosure of liens established hereunder, such controversy shall be determined by arbitration. Either party desiring to arbitrate a controversy shall give written notice to the other party, which notice shall include a designation of the name and address of the person to serve as arbitrator for the party giving such notice. Within fifteen (15) days after receipt of such notice, the recipient of such notice shall give written notice to the other party designating the name and address of a person to serve as arbitrator for the recipient of such notice. The two persons so designated shall forthwith select a third person and such three persons shall serve as arbitrators hereunder. In the event either party fails to designate a person to serve as arbitrator and give notice thereof to the other party as provided herein; or in the event the two persons so designated as arbitrators fail or refuse to select a third arbitrator; or in the event any arbitrator appointed fails or refuses to perform such arbitrator's duties hereunder; either party may petition a

court of competent jurisdiction for the appointment of an arbitrator. The arbitrators shall execute oaths to faithfully perform their duties hereunder and in accordance with any applicable statutory authority. The arbitrators shall determine all issues of procedure and admissibility of evidence, and shall determine the obligations of the parties under the terms and conditions of this Declaration and may assess and award damages for any failure or delay in performance of such obligations. The decision of any two of the three arbitrators shall determine the procedural issues and the issue or issues presented for arbitration. Each of the parties shall pay the fees and expenses of the person designated by such party to serve as arbitrator and one-half of the fees and expenses of the third arbitrator; provided that the arbitrators shall have the power to award reimbursement to the prevailing party for such fees and expenses. All arbitration proceedings shall be held within the State of Oregon.

SECTION 4. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Daniel M. Webb  
Daniel M. Webb

Pauline A. Webb  
Pauline A. Webb

STATE OF OREGON            )  
  ) ss.  
County of Lane            )

21st The foregoing instrument was acknowledged before me this September day of 1988, by DANIEL M. WEBB and PAULINE A. WEBB.

Patricia G. Nelson  
Notary Public for Oregon  
My Commission Expires: 4-14-90



PARCEL I

That portion of the following described property situated in Sections 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, lying East of the Goodrich Highway and West of the Southern Pacific Railroad Company right of way: Beginning at a point 3.00 chains North of the southeast corner of Robert Smith and wife Donation Land Claim No. 47, in Township 23 South, Range 5 West; thence running West, parallel with the south boundary of said claim 40 chains; thence North 12.31 chains; thence East to the east line of Lot 3, Section 27; thence South 10.03 chains to the southeast corner of said Lot; thence West to claim line; thence South 2.28 chains on claim line to the point of beginning.

TOGETHER WITH a perpetual, exclusive easement over a fifteen foot strip of land for the purpose of permitting the Grantee to lay, construct, keep and maintain, and repair and reconstruct, as may be necessary or advisable, a water pipeline under the surface of such strip. The center line of said fifteen foot strip of land is described as follows: Beginning at a point on the southeasterly right-of-way line of Old Highway 99 in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said point bears N 38° 20' 07" West 1332.22 feet and S 40° 04' 41" East 60.00 feet from the Southeast corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian; thence North 59° 24' 36" East 55.7 feet; thence S 88° 52' 26" East 343.0 feet to the westerly right-of-way of County Road No. 29 and there terminating.

PARCEL II

A parcel of land lying in Sections 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows:

Beginning at a 3/4" iron rod on the northwesterly right-of-way of Highway 99, said point bears North 38° 20' 07" West 1332.22 feet from the Southeast Corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian; thence North 49° 55' 19" East 110.27 feet along said right-of-way to a 5/8" iron rod with cap; thence continuing North 49° 55' 19" East 71.31 feet to a 5/8" iron rod with cap; thence along the arc of a 1909.26 foot radius curve to the left (the long chord of which bears North 46° 23' 13" East 196.53 feet) 196.59 feet; thence leaving said right-of-way North 56° 16' 52" West 641.01 feet to a 5/8" iron rod with cap at the most southerly corner of that parcel described in Instrument No. 348122; thence North 71° 16' 47" West 236.00 feet along the South line of that parcel described in Instrument No. 348122 to the southeasterly right-of-way of Interstate 5; thence along said right-of-way South 19° 52' 06" West 348.27 feet to a 5/8" iron rod and South 19° 52' 06" West 239.42 feet to a 5/8" iron rod with cap; thence leaving said right-of-way South 54° 49' 18" East 553.43 feet to a 5/8" iron rod with cap on the northwesterly right-of-way at Highway 99; thence along said right-of-way North 49° 55' 19" East 228.19 feet to a 5/8" iron rod with cap and North 49° 55' 19" East 63.06 feet to the point of beginning. All being in Sections 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and containing 10.44 acres more or less.

PARCEL III

A parcel of land lying in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows: Beginning at a 5/8 inch iron rod with cap on the northwesterly right of way line of Highway 99, said point bears North 38° 20' 07" West 1332.22 feet and South 49° 55' 19" West 291.25 feet from the southeast corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence South 49° 55' 19" West 285.32 feet to the most easterly corner of that parcel described in Recorder's No. 85-12715, Records of Douglas County, Oregon; thence leaving said right of way, North 40° 04' 41" West 115.00 feet along the northeasterly line of aforementioned parcel; thence South 49° 55' 19" West 158.28 feet along the northwesterly line of said parcel to a point on Interstate Highway No. 5 right of way; thence along said right of way the following: North 39° 51' 21" West 125.01 feet to a point 55 feet left of Engineer's Centerline Station 1028+86.13 P.T., along the arc of a 183.73 foot radius curve to the right (the chord of which bears North 23° 15' 12" West 104.98 feet) 106.47 feet to a point 55 feet left of Engineer's Centerline Station 1027+47.76 P.S.C., North 9° 15' 38" East 175.87 feet to a point 53.05 feet left of Engineer's Centerline Station 1025+47.76 P.S., North 19° 52' 06" East 49.13 feet to a 5/8 inch iron rod and North 19° 52' 06" East 110.85 feet to a 5/8 inch iron rod with cap; thence leaving said Interstate No. 5 Freeway right of way, South 54° 49' 18" East 553.43 feet to the point of beginning.

PARCEL IV

A parcel bordered by Interstate Highway No. 5 on the East, and Prescott Avenue on the West: Beginning at a point on the northerly right of way of Interstate Highway No. 5, said point bears West 2138.91 feet and North 861.42 feet from the southeast corner of Robert Smith Donation Land Claim No. 47, in Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said point also being on the easterly right of way of Prescott Avenue; thence following said Interstate right of way, South 89° 36' 15" East 185.45 feet, North 18° 15' 35" East 161.48 feet, North 17° 48' 00" East 45.10 feet, and North 52° 32' 00" East 145.00 feet to the true point of beginning; thence continuing along said right of way, North 52° 32' 00" East 57.36 feet, and North 17° 33' East 465.92 feet to a point on the northerly line of that property described in Recorder's No. 65-12745, Records of Douglas County, Oregon; thence leaving said right of way along said northerly line, North 89° 11' 30" West 191.77 feet to a point on the east line of Prescott Avenue; thence leaving said northerly line along the east line of Prescott Avenue, South 18° 51' West 247.43 feet and along the arc of a 1939.86 foot radius curve to the right (the chord of which bears South 22° 34' 47" West 252.36 feet) 252.54 feet; thence leaving said east line, South 85° 24' 49" East 183.16 feet to the point of beginning.



PARCEL V

A parcel of land lying in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows: Beginning at the northwest corner of that property as described in Instrument No. 74-477, Records of Douglas County, Oregon, from which point the southeast corner of Donation Land Claim No. 47 in said township and range, bears South 0° 23' 42" West 928.65 feet, South 0° 12' 43" West 20.26 feet, South 711.88 feet, and East 2630.36 feet; thence South 89° 11' 30" East 1030 feet, more or less, to a point on the westerly right of way line of I-5 Highway; thence Northeasterly along said right of way line, to a point on the north line of the South half of the East half of said Donation Land Claim No. 47; thence West along said north line, to the northwest corner of said South half of the East half of Donation Land Claim No. 47; thence South along the west line of said South half of the East half of Donation Land Claim No. 47, to the point of beginning.

Except that portion lying within the County Road. Also excepting those properties as described in Instrument Nos. 66-4373, 74-3793, 75-12918, and 72-14229, Records of Douglas County, Oregon.

PARCEL VI

Beginning at a 5/8 inch iron rod on the westerly right of way line of Interstate Highway No. 5, said point being West 1613.18 feet, North 1549.92 feet and North 17° 36' East 555.09 feet from the southeast corner of Robert Smith Donation Land Claim No. 47 in Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence North 17° 36' East 134.80 feet along said westerly right of way; thence leaving said right of way North 71° 09' West 167.35 feet; thence South 18° 51' West 134.78 feet; thence South 71° 09' East 170.28 feet to the point of beginning, all lying within Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

PARCEL VII

That part of the North half of the East half of Donation Land Claim No. 47, in Sections 21, 22, 27, and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, lying West of Interstate Highway No. 5.

A parcel of land lying in Section 27 and Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows: Beginning at a 5/8 inch iron rod with cap on the northwesterly right of way of Highway 99, said point bears North 38° 20' 07" West 1332.22 feet, North 49° 55' 19" East 181.58 feet, and North 46° 23' 13" East 196.53 feet from the southeast corner of Donation Land Claim No. 47, in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence North 56° 16' 52" West 641.01 feet to the southeast corner of that property described in Recorder's No. 348122, Deed Records of Douglas County, Oregon; thence South 80° 33' 57" East 724.59 feet to a 3/4 inch iron rod on the westerly right of way of Old Highway 99; thence along said right of way along the arc of 1909.26 foot radius curve to the right (the chord of which bears South 37° 27' 19" West 298.64 feet) 298.95 feet to the point of beginning, all being a part of Sections 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

PARCEL IX

All of the following described property except that property which is described herein as Parcel IV:

Parcel A

*R. B. Harrington Deed to Webb*

Beginning at a point 711.88 feet North and 2630.36 feet West of the southeast corner of the Robert Smith Donation Land Claim No. 47 in Township 23 South, Range 5 West of the Willamette Meridian, Douglas County, Oregon, and run thence North 00° 16' 20" East 305.32 feet to a point; thence South 89° 54' 35" East 726.07 feet to a point on the westerly right of way line of the Pacific Freeway; thence following said Freeway right of way line, South 17° 56' 35" West 45.00 feet to a point of spiral; thence along an increasing spiral curve to the right concentric with and 190 feet distant from a standard highway spiral 450 feet long having an "a" factor of 0.5 by a chord that bears South 18° 16' 15" West 118.57 feet to a point; thence leaving said Freeway right of way line and following the northerly right of way line of the "A" leg connector to said Freeway, North 89° 36' 15" West 251.40 feet to a point; thence South 19° 41' 25" West 105.96 feet to a point, said point being 60 feet northerly at right angles to center line station 4 + 35.00; thence North 89° 36' 15" West 125.00 feet to a point; thence North 00° 23' 45" East 20.00 feet to a point; thence South 77° 20' 35" West 177.12 feet to a point, said point being 40 feet northerly at right angles to center line station 7 + 32.55; thence South 00° 23' 45" West 47.97 feet to a point; thence leaving said "A" leg connector North 80° 34' 50" West 92.64 feet to the point of beginning, all in Douglas County, Oregon.

EXCEPTING THEREFROM that certain parcel of land deeded to Elbert Dwight Allen, recorded in Volume 81, Page 225, Deed Records of Douglas County, Oregon.

ALSO EXCEPT that part deeded to Yoncalla United Methodist Church in Recorder's No. 74-477, Records of Douglas County, Oregon.

A parcel of land lying in the Robert Smith Donation Land Claim No. 47, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being that property described in that certain deed to the State of Oregon, by and through its State Highway Commission, recorded in Book 314, Page 811, Deed Records of Douglas County, Oregon.

EXCEPT THEREFROM that portion included in a strip of land variable in width, lying on each side of the center line of the "A" Leg Connection of the Pacific Highway, which connection center line is described as follows: Beginning at Engineer's center line Station "A" 0+00 equals Station "Ls" 1028+68 on the center line of the southbound lane of the relocated Pacific Highway, said station being 753.14 feet North and 1780.6 feet West of the southeast corner of said Donation Land Claim No. 47; thence North 87° 36' 30" West 732.55 feet to Engineer's center line Station "A" 7+32.55 at which station the westerly line of said strip of land lies at right angles to said center line.

The widths in feet of the strip of land above referred to are as follows:

Station to	Station	Width on Northerly Side of Center Line	Width on Southerly Side of Center Line
"A"4+35	"A"5+60	60	
"A"5+60	"A"7+32.55	80 taper to 40	
"A"4+35	"A"6+18		60
"A"6+18	"A"7+32.55		60 taper to 30

Bearings are based upon the Oregon Co-ordinate System, South Zone.

Parcel C

The South half of the East half of DLC #47 in Township 23 South Range 5 West, Willamette Meridian, Douglas County, OR except the Southerly 15.31 chains.

Also excepting the following:

A parcel of land lying in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows: Beginning at the northwest corner of that

--continued--

PARCEL IX, Parcel C - cont'd

property as described in Instrument No. 74-477, Records of Douglas County, Oregon, from which point the southeast corner of Donation Land Claim No. 47 in said township and range, bears South 0° 12' 42" West 928.65 feet, South 0° 12' 43" West 20.26 feet, South 711.88 feet, and East 2630.36 feet; thence South 89° 11' 30" East 1030 feet, more or less, to a point on the westerly right of way line of I-5 Highway; thence Northeasterly along said right of way line, to a point on the north line of the South half of the East half of said Donation Land Claim No. 47; thence West along said north line, to the northwest corner of said South half of the East half of Donation Land Claim No. 47; thence South along the west line of said South half of the East half of Donation Land Claim No. 47, to the point of beginning. ✓

Except that portion lying within the County Road. Also excepting those properties as described in Instrument Nos. 74-477, Records of Douglas County, Oregon.

## EXHIBIT B

A ten acre parcel, more or less, the boundaries and size of which are to be determined by a survey, which parcel shall include all of the property described as follows: ✓

Beginning at a manhole on the southerly line of that parcel described in Instrument No. 76-11974, Records of Douglas County, Oregon, said point being South  $87^{\circ} 49' 30''$  East 14.25 feet from the most westerly corner of said parcel, and also being North 1048.01 feet and West 1534.50 feet from the southeast corner of Donation Land Claim No. 47, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence North  $39^{\circ}$  West 18.0 feet, more or less, to the easterly right of way line of Highway Interstate No. 5.; thence continuing North  $39^{\circ}$  West 197.0 feet, more or less, to the westerly right of way line of Highway Interstate No. 5; thence continuing North  $39^{\circ}$  West 240.0 feet, more of less, to sanitary sewer manhole in County Road No. 360; thence continuing along said sanitary sewer line the following: North  $21^{\circ}$  East 400.5 feet, more or less, to a sanitary sewer manhole, North  $21^{\circ}$  East 306.8 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 391.1 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 353.3 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 348.6 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 349.6 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 353.4 feet, more or less, to a sanitary sewer manhole on the easterly side of existing sewer lagoon and being the true point of beginning; thence North  $7^{\circ}$  East 275.0 feet; thence North  $83^{\circ}$  West 510.0 feet; thence South  $7^{\circ}$  West 640.0 feet; thence South  $83^{\circ}$  East 510.0 feet; thence North  $7^{\circ}$  East 365.0 feet to the true point of beginning.

All of which parcel lies within that portion of the North half of the East half of the Robert Smith Donation Land Claim No. 47 in Sections 21, 22, 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, which is West of Interstate Highway No. 5. ✓

-continued-

TOGETHER WITH an easement for an existing sanitary sewer line from the east side of Pacific Interstate No. 5, Northwesterly and Northeasterly to sewer treatment lagoons, more particularly described as follows: An easement 10 feet wide, 5 feet either side of a centerline described as: Beginning at a manhole on the southerly line of that parcel described in Recorder's No. 76-11974, Records of Douglas County, Oregon, said point being South  $87^{\circ} 49' 30''$  East 14.25 feet from the most westerly corner of said parcel, and also being North 1048.01 feet and West 1534.50 feet from the southeast corner of Donation Land Claim No. 47, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence North  $39^{\circ}$  West 18.0 feet, more or less, to the easterly right of way line of Highway Interstate No. 5; thence continuing North  $39^{\circ}$  West 197.0 feet, more or less, to the westerly right of way line of Highway Interstate No. 5; thence continuing North  $39^{\circ}$  West 240.0 feet, more or less, to sanitary sewer manhole in County Road No. 360; thence continuing along said sanitary sewer line the following: North  $21^{\circ}$  East 400.5 feet, more or less, to a sanitary sewer manhole, North  $21^{\circ}$  East 306.8 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 391.1 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 353.3 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 348.6 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 349.6 feet, more or less, to a sanitary sewer manhole, North  $7^{\circ}$  East 353.4 feet, more or less, to a sanitary sewer manhole on the easterly side of existing sewer lagoon.

Also TOGETHER WITH an easement for the sewer lagoon, the perimeter of which is described as: Beginning at the last aforementioned manhole; thence North  $7^{\circ}$  East 275.0 feet; thence North  $83^{\circ}$  West 510.0 feet; thence South  $7^{\circ}$  West 640.0 feet; thence South  $83^{\circ}$  East 510.0 feet; thence North  $7^{\circ}$  East 365.0 feet to the point of beginning.

That portion of the following described property situated in Sections 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, lying East of the Goodrich Highway and West of the Southern Pacific Railroad Company right of way: Beginning at a point 3.00 chains North of the southeast corner of Robert Smith and wife Donation Land Claim No. 47, in Township 23 South, Range 5 West; thence running West, parallel with the south boundary of said claim 40 chains; thence North 12.31 chains; thence East to the east line of Lot 3, Section 27; thence South 10.03 chains to the southeast corner of said Lot; thence West to claim line; thence South 2.28 chains on claim line to the point of beginning.

TOGETHER WITH a perpetual, exclusive easement over a fifteen foot strip of land for the purpose of permitting the Grantee to lay, construct, keep and maintain, and repair and reconstruct, as may be necessary or advisable, a water pipeline under the surface of such strip. The center line of said fifteen foot strip of land is described as follows: Beginning at a point on the southeasterly right-of-way line of Old Highway 99 in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, said point bears N 38° 20' 07" West 1332.22 feet and S 40° 04' 41" East 60.00 feet from the Southeast corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian; thence North 59° 24' 36" East 55.7 feet; thence S 88° 52' 26" East 343.0 feet to the westerly right-of-way of County Road No. 29 and there terminating.

STATE OF OREGON )  
 COUNTY OF DOUGLAS ) SS.  
 I, GAY FIELDS, COUNTY CLERK AND RECORDER  
 OF CONVEYANCES, DO HEREBY CERTIFY THAT  
 THIS INSTRUMENT WAS RECORDED

1988 SEP 27 PM 3:09

GAY FIELDS  
 DOUGLAS COUNTY CLERK  
 IN THE OFFICIAL RECORDS OF DOUGLAS COUNTY

BY Don L. Weddell  
 DEPUTY  
 88-14356 FEE 120.00

93-22124

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EXHIBIT "E"

After recording return to:

Miller, Nash, Wiener,  
Hager & Carlsen  
4400 Two Union Square  
601 Union Street  
Seattle, Washington 98101-2352  
Attention: David W. Hercher

93-22125

EASEMENT AGREEMENT AND  
FIRST AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS

This easement agreement and first amendment to declaration of covenants and restrictions (this "Agreement") is entered into this 13 day of September, 1993, by and among Daniel M. Webb and Pauline A. Webb, husband and wife (together called the "Webbs"), Ellis Emory and Barbara Emory, husband and wife (together called the "Emorys"), and The Rice Hill Owners Association, Inc., an Oregon corporation ("Association").

R E C I T A L S

A. The Emorys are the owners of the real property described in Exhibit "A" attached hereto (the "Land").

B. The Webbs and the Emorys are the only Members of the Association. The Association operates a Water Supply System and a Sewage Discharge System on the real property described in the Declaration of Covenants and Restrictions dated as of September 21, 1988, and recorded on September 27, 1988, in Book 1035, at page 952, as Recorder's No. 88-14356, Records of Douglas County, Oregon ("Declaration"). The Declaration has not been amended, modified, withdrawn, or repealed and remains in full force and effect.

C. The Emorys are also the owners of the real property described in Exhibit "B" attached hereto (the "Truck Stop Property"), which the Webbs previously sold to the Emorys. The Webbs are the owners of an eight-inch water supply line that they installed in the Truck Stop Property before selling it to the Emorys. The water line is intended to be connected to the Association's Water Supply System to serve the properties currently owned by the Webbs on the west side of Interstate Freeway No. 5, which are described in Exhibit "C" attached hereto ("West Side Properties").

D. On September 21, 1988, the Webbs executed and delivered to the Association a statutory bargain and sale deed, which was recorded on August 10, 1989, in Book 1035, page 1001,

DOUGLAS COUNTY TITLE COMPANY

DOUGLAS COUNTY TITLE CO.  
629 S.E. MAIN ST.  
ROSEBURG, OR 97470



of the Records of Douglas County, Oregon (the "1989 Deed"). The 1989 Deed conveyed to the Association certain real property described in the first paragraph of Exhibit A thereto, together with five separately described easements described in the second through fifth paragraphs of Exhibit A thereto. The easement granted in the third paragraph of the 1989 Deed is hereinafter referred to as the "Sanitary Easement." The Webbs have agreed to expand the Sanitary Easement on the terms and conditions set forth below.

#### A G R E E M E N T

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned, intending to be legally bound, agree as follows:

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by this reference.

2. Definitions. Except as otherwise defined herein or except as the context requires otherwise, terms used in this Agreement shall have the meanings assigned to them in the Declaration. References herein to the "Emorys" and the "Webbs" shall include their respective heirs, personal representatives, mortgagees, successors, assigns, purchasers at any foreclosure sale, and where appropriate their agents, employees, tenants, guests, and licensees, and other successors in interest.

3. Easement over Truck Stop Property.

(a) Grant. The Emorys hereby grant to the Webbs, and to the Webbs' heirs, personal representatives, mortgagees, successors, assigns, purchasers at any foreclosure sale, agents, employees, tenants, invitees, guests and licensees, a nonexclusive easement in perpetuity over, across, under, and upon the Truck Stop Property for the purposes of installing, replacing, using, and maintaining a water supply line ("Webb Water Line") through the Truck Stop Property and connecting the Webb Water Line to the Association's Water Supply System ("Water Line Easement"). The Emorys reserve the right, at their expense, to move, relocate, or modify the Webb Water Line to allow for expansion and development of the Land or the Truck Stop Property or to describe the location of the Webb Water Line by survey; provided, however, that (1) before the Emorys terminate water flow through the Webb Water Line they shall have installed in a workmanlike manner and in compliance with all applicable laws, regulations, and codes, and after obtaining all required permits, and be ready to immediately connect, a new Webb Water Line that complies with all applicable laws, regulations, codes, and standards for potable water supply pipe and that has at least the same capacity as the then-existing Webb Water Line, and (2) after terminating service through the existing Webb Water Line, the

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Emorys shall connect the new Webb Water Line immediately so as to prevent any disruption in service to the West Side Properties. Emorys and the Association may obtain title insurance at their expense and review and approve encumbrances and exceptions thereto before the Closing.

(b) Changed Conditions. The Water Line Easement is intended to be appurtenant to the West Side Properties and to survive without deviation from the original grant any changes in the manner of use of the West Side Properties including without limitation increased use resulting from the passage of time or arising from new needs.

(c) Maintenance. The Emorys shall be responsible for all maintenance of the Truck Stop Property in a manner such that the Webb Water Line is not moved, punctured, blocked, or damaged in any way, except as permitted in Section 3.(a) hereof. The Emorys shall permit the Webbs to have reasonable and necessary access to the Truck Stop Property for maintenance, repair, or replacement thereof. The Webbs shall immediately restore the Truck Stop Property to a condition as good as the condition it was in before any such maintenance, repair, or replacement, including any excavation relating thereto; provided, however, that any increased cost occurring as a result of any improvements constructed by the Emorys after the date hereof, which improvements impede access to or increase the cost of such excavation, maintenance, repair, or replacement, shall be born by the Emorys. Any expansion or increased use requiring modification or alteration of the Webb Water Line shall be at the sole cost of the party requiring such modification, alteration, or expansion and must be consistent with the then-existing use of the Land and the Truck Stop Property.

#### 4. Sanitary Easement.

(a) Grant. The Webbs hereby grant to Association a nonexclusive easement 20 feet wide, 5.0 feet on the southwesterly and westerly side, and 15.0 feet on the northeasterly and easterly side, of the centerline described in the Sanitary Easement. This easement shall be appurtenant to the real property described in the first paragraph of Exhibit A to the 1989 Deed and shall otherwise be governed by the terms and conditions of the 1989 Deed. The Webbs reserve the right, at their expense, to move, relocate, or modify the sanitary sewer line lying in the Sanitary Easement ("Sewer Line") to allow for expansion and development of the West Side Properties; provided, however, that (1) before the Webbs terminate waste flow through the Sewer Line they shall have installed in a workmanlike manner and in compliance with all applicable laws, regulations, and codes, and after obtaining all required permits, and be ready to immediately connect, a new Sewer Line that complies with all applicable laws, regulations, codes, and standards for sewage discharge supply pipe and that has at least the same capacity as the then-existing Sewer Line, and (2) after terminating service through the existing Sewer Line, the Webbs shall connect the new

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Sewer Line immediately so as to prevent any disruption in service to the properties serviced by the Sewage Line.

(b) Maintenance. The Association shall maintain the road on the Sanitary Easement in good condition at all times and shall never block the road on the Sanitary Easement in any manner, including by the installation of one or more gates. The Webbs reserve the right to install and lock gates on the Sanitary Easement at any time to prevent any trespassing upon Webbs' property, including any trespassing on the Sanitary Easement by persons other than the Association, and to contain livestock. The Webbs shall otherwise maintain the Sanitary Easement in a manner such that the Sewer Line is not moved, punctured, blocked, or damaged in any way, except as permitted in Section 4. (a) hereof, and the Webbs shall not construct any buildings or other improvements on the Sanitary Easement that would prevent or unreasonably impede any necessary or permitted excavating to install, maintain, replace, or otherwise obtain permitted access to the Sewer Line. The Association shall be responsible for repairing any damage to the Sanitary Easement caused by any excavation performed by the Association. Any expansion or increased use requiring modification or alteration of the Sewer Line shall be at the sole cost of the party requiring such modification, alteration, or expansion and must be consistent with the then-existing use of the real property described in the first paragraph of Exhibit A to the 1989 Deed. The Association is hereby given continued permission to drive across the fields belonging to Webb, also known as the Ernest Warner Property and described as such in Exhibit C attached hereto, for ingress to and egress from the Association's sewer pond facilities until such time that Webb requests that the Association confine its travel to the Sanitary Easement for ingress to and egress from the Association's sewer pond facilities.

(c) Cost of Preparation of Legal Description. Purchaser shall reimburse Seller upon request for Seller's expense of obtaining a legal description of the Sanitary Easement.

5. Binding Effect. Except as otherwise provided herein, the easements contained in this Agreement are not personal but shall run with the land and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, transferees, successors, and assigns.

6. First Amendment to Declaration.

(a) Amendments. The Declaration is hereby amended as set forth in this Agreement. Except as specifically provided for herein, all of the terms and conditions of the Declaration shall remain in full force and effect.

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(i) Article I, Section 1. The following new definition is added to Article I, Section 1, of the Declaration:

i. "Emorys" shall mean and refer to Ellis Emory and Barbara Emory and their assigns and successors in interest.

(ii) Article IV, Section 5. Article IV, Section 5, of the Declaration is hereby deleted in its entirety and replaced with the following:

SECTION 5. TITLE TO WELL PROPERTY. Within two years after a source of water other than the property described on Exhibit C (Well Property) becomes available to the Association for the Water Supply System, then, the Association shall forthwith convey the Well Property to Declarants, their heirs or assigns, without payment of additional consideration to the Association. As used in this section, the words "becomes available" shall mean when another water source may be connected, which source provides similar service at an expense consistent with the costs of commercial use of water in the area and with reasonable installation and hook-up costs.

(iii) Article IV, Section 8. The following new Section 8 is added to Article IV of the Declaration:

SECTION 8. NEW CONNECTIONS FOR DECLARANTS' PROPERTIES. This section shall apply notwithstanding any contrary provision of this Declaration, including Article IV, Section 3, Subsections f, g, and h. The Association, the Owners, the Members, the Emorys, and the heirs and assigns of each shall cooperate with and not interfere with development by Declarants or their heirs or assigns of, and/or applications or other efforts by Declarants or their heirs or assigns to obtain permits for expansion of the Sewage Discharge System or connection to the Sewage Discharge System or the Water Supply System for; any properties now or hereafter owned by Declarants or Declarants' heirs or assigns; provided, however, that the owner of such property or properties shall bear all costs of any development of, and/or applications or other efforts to obtain permits for expansion of, the Sewage Discharge System or connection to the Sewage Discharge System or the Water Supply System, and this section shall not apply to any expansion of or connections to the Sewage Discharge System or the Water Supply System that are more than one-half mile from any then-existing portion of the Sewage Discharge System or the Water Supply System.

(iv) Article V, Section 13. The following new Section 13 is added to Article V of the Declaration:

SECTION 13. WATER METERS; NONMEMBER CONNECTION FEES; LIMITS ON FEES CHARGED TO DECLARANTS. This section



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apply notwithstanding any contrary provision of this Declaration, including Article V. All connections to the Water Supply System shall have a water meter. Fees, charges, and assessments for the provision of water and/or the right to discharge sewage will be prorated among all Owners according to the volume of water used. Any Owner other than Declarants who is not a Member shall pay in cash in advance of connection a connection fee (Special Service Charge) of \$5,000 for each connection to the Sewage Discharge System and \$5,000 for each connection to the Water Supply System. The proceeds of the Special Service Charge shall be used by the Association solely for maintenance and/or expansion of the Sewage Discharge System and/or the Water Supply System and for no other purpose. The Association shall not charge Declarants or the Emorys or the heirs or assigns of either Declarants or the Emorys more than \$500 for any connection to the Sewage Discharge System or more than \$250, plus the cost of installation of the water meter, for any connection to the Water Supply System. During the longer of the Declarants' lives, the Association shall provide full water and sewer service to Declarants' existing residence without any charge, including any costs, charges, or expenses for acquisitions, maintenance, operations, taxes, or insurance of the Association.

(b) Association Articles and Bylaws. The Webbs and the Emorys, as the sole Members, directors, and officers of the Association, shall cause the Association's articles of incorporation and bylaws to be amended to the extent necessary to become consistent with this Agreement. Notwithstanding any prior act of the Association, including any act of its board of directors at a meeting on September 21, 1988, any sewage discharge system or water supply system constructed by the Webbs, including the water line installed by the Webbs under Interstate Freeway No. 5, which is not connected to the Water Supply System as of May 1, 1993, as well as any other sewage discharge system or water supply system constructed by the Webbs, shall remain the separate property of the Webbs and shall not become Association Property or part of the Sewage Discharge System or the Water Supply System.

7. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, representatives, successors, and assigns.

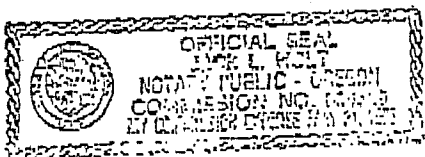
8. Counterparts. This Agreement may be executed in such multiple counterparts as may be necessary for the convenience of the parties. The original signed signature pages and acknowledgments may be attached to one counterpart of this Agreement to facilitate the recording of this Agreement.

BOOK 1263 PAGE 189

By Barbara Emory  
Barbara Emory  
Director, Secretary, and Member

STATE OF OREGON )  
 ) SS  
COUNTY OF DOUGLAS )

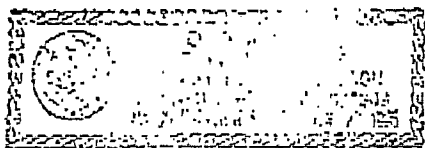
This instrument was acknowledged before me on Sept 10, 1993, Ellis Emory and Barbara Emory, husband and wife, both as individuals and on behalf of The Rice Hill Owners Association, Inc., an Oregon corporation.



Jack R. Holt  
Notary Public for Oregon  
My commission expires: 5-31-95

STATE OF OREGON )  
 ) SS  
COUNTY OF DOUGLAS )

This instrument was acknowledged before me on Sept 13, 1993, by Daniel M. Webb and Paulina A. Webb, husband and wife, both as individuals and on behalf of The Rice Hill Owners Association, Inc., an Oregon corporation.



Glenda L. Beer  
Notary Public for Oregon  
My commission expires: 6-26-95

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EXHIBIT "E" (CONTINUED)

## EXHIBIT "A"

A parcel of land lying in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows: Beginning at a 5/8 inch iron rod with cap on the northwesterly right of way line of Highway 99, said point bears North 38° 20' 07" West 1332.22 feet and South 49° 55' 19" West 291.25 feet from the southeast corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence South 49° 55' 19" West 285.32 feet to the most easterly corner of that parcel described in Recorder's No. 85-12715, Records of Douglas County, Oregon; thence leaving said right of way, North 40° 04' 41" West 115.00 feet along the northeasterly line of aforementioned parcel; thence South 49° 55' 19" West 158.28 feet along the northwesterly line of said parcel to a point on Interstate Highway No. 5 right of way; thence along said right of way the following: North 39° 51' 21" West 125.01 feet to a point 55 feet left of Engineer's Centerline Station 1028+86.13 P.T., along the arc of a 183.73 foot radius curve to the right (the chord of which bears North 23° 15' 12" West 104.98 feet) 106.47 feet to a point 55 feet left of Engineer's Centerline Station 1027+47.76 P.S.C., North 9° 15' 38" East 175.87 feet to a point 53.05 feet left of Engineer's Centerline Station 1025+47.76 P.S., North 19° 52' 06" East 49.13 feet to a 5/8 inch iron rod and North 19° 52' 06" East 110.85 feet to a 5/8 inch iron rod with cap; thence leaving said Interstate No. 5 Freeway right of way, South 54° 49' 18" East 553.43 feet to the point of beginning.

EXCEPTING THEREFROM THE FOLLOWING: Beginning at a 5/8 inch iron rod with cap on Interstate Highway No. 5 right of way, said point bears North 64° 12' 56" West 1696.96 feet from the southeast corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence leaving said right of way, North 45° 23' 55" East 158.38 feet; thence South 40° 04' 41" East 114.50 feet; thence South 49° 55' 19" West 158.28 feet to a 5/8 inch iron rod with cap on the easterly right of way of Interstate No. 5; thence North 39° 51' 21" West 102.01 feet along said easterly right of way line to the point of beginning.

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EXHIBIT "B" (CONTINUED)

## EXHIBIT "B"

## Legal Description of Truck Stock Property

A parcel of land lying in Sections 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and being described as follows: Beginning at a 3/4 inch iron rod on the northwesterly right of way of Highway 99, said point bearing North 38° 20' 07" West 1332.22 feet from the southeast corner of Donation Land Claim No. 47 in Section 28, Township 23 South, Range 5 West, Willamette Meridian; thence North 49° 55' 19" East 110.27 feet along said right of way to a 5/8 inch iron rod with cap; thence continuing North 49° 55' 19" East 71.31 feet to a 5/8 inch iron rod with cap; thence along the arc of a 1909.26 foot radius curve to the left (the long chord of which bears North 46° 23' 13" East 196.53 feet) 196.59 feet; thence leaving said right of way, North 56° 16' 52" West 641.01 feet to a 5/8 inch iron rod with cap at the most southerly corner of that parcel described in Recorder's No. 348122, Deed Records of Douglas County, Oregon; thence North 71° 16' 47" West 236.00 feet along the south line of said parcel described in Recorder's No. 348122, Deed Records of Douglas County, Oregon, to the southeasterly right of way of Interstate 5; thence along said right of way, South 19° 52' 06" West 348.27 feet to a 5/8 inch iron rod and South 19° 52' 06" West 239.42 feet to a 5/8 inch iron rod with cap; thence leaving said right of way, South 54° 49' 18" East 553.43 feet to a 5/8 inch iron rod with cap on the northwesterly right of way at Highway 99; thence along said right of way, North 49° 55' 19" East 228.19 feet to a 5/8 inch iron rod with cap and North 49° 55' 19" East 63.06 feet to the point of beginning.



## EXHIBIT "C"

## LEGAL DESCRIPTION OF WEST SIDE PROPERTIES

[E. B. Harryman deed to Webb dated June 8, 1966, recorded in Book 373, page 993.]

BEGINNING at a point 711.88 feet North and 2630.36 West of the Southeast corner of the Robert Smith Donation Land Claim No. 47 in Township 23 South, Range 5 West of the Willamette Meridian, and run thence N 00° 16' 20" E 305.32 feet to a point; thence S 89° 54' 35" E 726.07 feet to a point on the westerly right-of-way line of the Pacific Freeway; thence following said Freeway right-of-way line S 17° 56' 35" W 45.00 feet to a point of spiral; thence along an increasing spiral curve to the right concentric with and 190 feet distant from a standard highway spiral 450 feet long having an "a" factor of 0.5 by a chord that bears S 18° 16' 15" W 118.57 feet to a point; thence leaving said Freeway right-of-way line and following the northerly right-of-way line of the "A" leg connector to said Freeway N 89° 36' 15" W 251.40 feet to a point; thence S 19° 41' 25" W 105.96 feet to a point, said point being 60 feet northerly at right angles to center line station 4 + 35.00; thence N 89° 36' 15" W 125.00 feet to a point; thence N 00° 23' 45" E 20.00 feet to a point; thence S 77° 20' 35" W 177.12 feet to a point, said point being 40 feet northerly at right angles to center line station 7 + 32.55; thence S 00° 23' 45" W 47.97 feet to a point; thence leaving said "A" leg connection N 80° 34' 50" W 92.64 feet to the point of beginning, containing 3.53 Acres, more or less, all in said Smith Claim, Douglas County, Oregon.

Excepting therefrom that certain parcel of land deeded to Elbert Dwight Allen recorded in Book 81, page 225, Douglas County Deed Records.

[Ernest Warner to Webb deed dated September 1964, recorded in Book 72, page 148.]

Ernest Warner Property

All that portion of the following described real property West of Interstate Highway No. 5 in Douglas County, Oregon:

The North Half of the East Half of Robert Smith Donation Land Claim No. 47 in Sections 21, 22, 27 and 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

Subject to:

Restricted access and drainage easement, including the terms and provisions thereof, in deed to the State of Oregon, Recorder's No. 155274 in Deed Records, Douglas County, Oregon.

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## EXHIBIT "C" continued

[Edwin B. Estes and Thelma Dorothy Estes deed dated 1962, recorded in Book 309, page 783.]

All that portion of Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, described as follows:

Beginning at a point on the westerly right of way line of the Pacific Highway U. S. 99 which is North 50° 42' West 2167.18 feet from the Southeast corner of Robert Smith Donation Land Claim No. 47, said Township and Range, thence South 17° 48' East 45.1 feet to the most southerly Southeast corner of parcel of land conveyed to Edwin B. Estes, et ux, as described in Volume 251, Douglas County Deed Records, Recorder's No. 210834; said point being on the north line of a 20 foot roadway; thence North 89° 57' West along said south line of said Estes parcel 30 feet; thence Northeasterly to a point on the north line of said Estes property which is North 80° 11' 30" East 165 feet from the Northeast corner thereof, thence South 89° 11' 30" West 165 feet to the westerly right of way line of Pacific Highway U. S. 99, thence South 17° 33' West 465.92 feet, and South 52° 32' West 202.36 feet to the place of beginning, Douglas County, Oregon.

Said property is subject to:

- |    |   |
|----|---|
| a. | Right of way to The California Oregon Power Company.  |
| b. | Access restrictions contained in the deed from Raymond H. Knopp and wife to the State of Oregon as recorded in Volume 218, Recorder's No. 155467, Deed Records. |

[Raymond H. Knopp and Vera F. Knopp deed to Webb dated ?, recorded in Book 298, page 859.]

That portion of the following described lands:

Donation Range 5 excepting chains	The South half of the East half of Land Claim #47 Township 23 South West of the Willamette Meridian, therefrom the southerly 15.31
--	--

lying westerly of the westerly line of U. S. Highway 99 as determined by deed from Raymond H. Knopp and wife to the State of Oregon as recorded in Volume 218 Recorders #155467.  
Excepting therefrom all that portion of Section 28 Township 23 South Range 5 West, Willamette Meridian, described as beginning

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## EXHIBIT "C" continued

at a 3/4" Iron Rod in the West right of way line of Pacific Highway U.S. 99 from which the Southeast corner of the Robert Smith Donation Land Claim No 47, bears South 60°42' East 2167.18 feet; Thence along the West Right of Way line of said highway the two following courses and distances, North 52° 32' East 202.36 feet to a post and North 17° 33' East 465.92 feet to a 3/4" Iron Rod; Thence North 89° 11' 30" West 442.09 feet to a 3/4" Iron Rod; Thence South 7° 32' 30" West 621.72 feet to a 3/4" Iron Rod in the North line of a 20 foot road; Thence South 89° 57' East 208.78 feet along the North line of said 20 foot road to a 3/4" Iron Rod in the West Right of Way line of said Highway; Thence North 17°48' East 45.1 feet along said last mentioned line to the point of beginning. containing 5.158 acres.  
The above described parcel containing 35 acres, more or less.

## EXCEPTING THEREFROM THE FOLLOWING:

[John W. McDonald deed to Donald A. Bentz Surveyor Inc. Profit Sharing, dated August 1989, recorder's No. 89-12121.]

Beginning at a T iron from which point the Southeast corner of the Robert Smith Donation Land Claim #47, Township 23 South, Range 5 West, bears South 71° 07' East 178.00 feet, and South 46° 35' East 2496.1 feet; thence North 18° 53' East 208.00 feet to a T iron; thence South 71° 07' East 172.0 feet to a point; thence South 18° 53' West 200.0 feet to a point; thence North 73° 47' West 172.2 feet to the place of beginning, in Robert Smith Donation Land Claim #47, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, State of Oregon.

TOGETHER WITH all rights, title and interest granted in Instrument #66-4373, Douglas County Clerks, Douglas County, Oregon.

## ALSO EXCEPTING THEREFROM

[Webb bargain and sale deed to Donald A. Bentz dated May 12, 1992]

## GENERALLY KNOWN AS THE CHURCH PARCEL

A parcel of land located in the Robert Smith Donation Land Claim No. 47, Section 28, Township 23 South, Range 5 West, Willamette Meridian, and being more particularly described as follows:

Beginning at a 3/8" iron rod on the West line of lands conveyed to Daniel M. Webb and wife by Recorder's No. 66-6833, Douglas County Records, from which point the Southeast corner of the Robert Smith Donation Land Claim No. 47 bears South 0° 12' 43" West 20.26 feet, South 711.88 feet and East 2630.36 feet; thence

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## EXHIBIT "C" continued

North 0° 12' 42" East 908.39 feet along said Webb property line and along the West line of lands conveyed to Daniel M. Webb and wife, by Recorder's No. 285785, records of Douglas County, to a 5/8" iron rod; thence South 89° 11' 30" East 566.54 feet to a 5/8" iron rod; thence South 7° 32' 30" West 276.86 feet to a 5/8" iron rod; thence South 29° 02' 46" West 672.07 feet to a 5/8" iron rod set in the Northwesterly right-of-way line of Pacific Highway U.S. 99, also referred to as the "A" leg connection to said Pacific Highway; thence along said line South 77° 20' 35" West 118.19 feet to a 5/8" iron rod; thence South 0° 23' 45" West 27.59 feet to a 5/8" iron rod; thence North 80° 34' 50" West 92.96 feet to the point of beginning, all in Section 28, Township 23 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

TOGETHER WITH a 30' wide access easement beginning at a 5/8" iron rod at the Northeast Corner of above described parcel; thence South 89° 11' 30" East 217.40 feet more or less, to a point on the west right-of-way of County Rd. No. 360; thence along said right-of-way South 18° 51' 00" West 31.55 feet; thence leaving said right-of-way North 89° 11' 30" West 211.17 feet more or less, to a point on the East Line of above described parcel; thence along said East Line North 7° 32' 30" East 30.21 feet to the point of beginning.

## SUBJECT TO AN:

Easement, including the terms and provisions thereof, given by R. B. Harryman and Marian Harryman, husband and wife, to Douglas Electric Cooperative, Inc., dated August 16, 1962, recorded August 16, 1962, Recorder's Nos. 311621 and 311622, Deed Records of Douglas County, Oregon.

## EXHIBIT F

BOOK 1263 PAGE 196

9. Restricted access, including the terms and provisions thereof, as set out in deed from Raymond Knopp et ux, to the State of Oregon, recorded February 11, 1953, in Volume 218, Recorder's No. 155467, Deed Records of Douglas County, Oregon.
  10. Restricted access, including the terms and provisions thereof, as set out in deed from Arthur Anderson et ux, to the State of Oregon, recorded December 4, 1953, in Volume 228, Recorder's No. 170526, Deed Records of Douglas County, Oregon.
  11. Restricted access, including the terms and provisions thereof, as set out in deed from Daniel M. Webb et ux, to the State of Oregon, recorded July 19, 1962, in Volume 315, Recorder's No. 310306, Deed Records of Douglas County, Oregon.
  12. Perpetual right of way, including the terms and provisions thereof, for installation and maintenance of sewer line over 10.0 foot strip, granted by Paul C. Weaver et ux, to Arthur O. Anderson, et ux, by instrument recorded June 11, 1964, in Volume 335, Recorder's No. 340563, Deed Records of Douglas County, Oregon.
  13. Easement, including the terms and provisions thereof, granted by Raymond Knopp et ux, to A. Anderson and Marlin Emmerson, recorded December 1, 1964, in Volume 340, Recorder's No. 348122, Deed Records of Douglas County, Oregon.
  14. Restrictions as to extension of sewer lines, including the terms and provisions thereof, as set out in deed from Raymond H. Knopp et ux, to Daniel M. Webb et ux, recorded in Book 817, Page 76, Recorder's No. 82-4099, Records of Douglas County, Oregon.
  15. Trust Deed, including the terms and provisions thereof, executed by Daniel M. Webb and Pauline A. Webb, husband and wife, to Henry L. Bauer, Trustee, for the benefit of Far West Federal Savings and Loan Association, dated February 11, 1983, and recorded February 17, 1983, in Book 841, Page 18, Recorder's No. 83-1954, Records of Douglas County, Oregon. Said trust deed was re-recorded April 12, 1983, in Book 845, Page 341, Recorder's No. 83-4227, Records of Douglas County, Oregon. (Affects a small portion, if any, along southerly border of property due to overlap in legal description.)
  16. Declaration of Covenants and Restrictions, including the terms and provisions thereof, by Daniel M. Webb and Pauline A. Webb, husband and wife, dated September 21, 1988, and recorded September 27, 1988, in Book 1035, Page 952, Recorder's No. 88-14356, Records of Douglas County, Oregon.
  17. Deed of Trust, including the terms and provisions thereof, executed by Ellis E. Emory and Barbara E. Emory, husband and wife, to Douglas County Title Company, Trustee, for the benefit of The Oregon Bank, dated September 21, 1988, and recorded September 27, 1988, in Book 1035, Page 984, Recorder's No. 88-14359, Records of Douglas County, Oregon, given to secure the payment of a note for \$586,612.00.
- Easement, including the terms and provisions thereof, granted by Ellis E. Emory and Barbara Emory, husband and wife, to James L. Tippens and Faye A. Tippens, husband and wife, dated October 16, 1992, recorded March 4, 1993, Book 1224, page 110 through 114, Reception No. 93-05029, Official Records of Douglas County, Oregon.

EXHIBIT F  
(cont.)

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Any Oregon Uniform Commercial Code fixture filings and any other encumbrances related to improvements on the subject property, including without limit to Texaco, Pacific Petroleum or Panoco.

Lease and extensions and amendments thereto from Ellis E. Emory and Barbara Emory, husband and wife, to Ellis E. Emory, Inc., an Oregon Corporation.

STATE OF OREGON )  
COUNTY OF DOUGLAS ) SS.  
I, GAY FIELDS, COUNTY CLERK AND RECORDER  
OF CONVEYANCES, DO HEREBY CERTIFY THAT  
THIS INSTRUMENT WAS RECORDED

93 OCT 29 PM 3:55

GAY FIELDS  
DOUGLAS COUNTY CLERK  
IN THE OFFICIAL RECORDS OF DOUGLAS COUNTY

BY Mary R. [Signature]  
Deputy

93-22124  
93-2425-5<sup>00</sup>  
100<sup>00</sup>  
5<sup>00</sup>  
105<sup>00</sup>

DCT

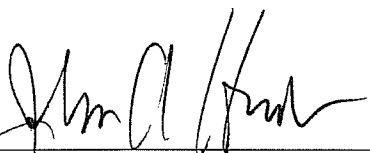
CERTIFICATE OF SERVICE

I, John A. Hudson, hereby certify that I am the attorney for Ellis E. Emory, President of the Rice Hill Owner's Association, Inc. herein; that I served the within *Application for Reconsideration, Rehearing and Withdrawal of Order No. 06-675 Re: Rice Hill Water District (with corrected exhibits)* on February 20, 2007, by placing a duly certified copy thereof in a sealed envelope plainly addressed as follows:

(SEE ATTACHED SERVICE LIST)

X postage prepaid and deposited in the United States Post Office at Eugene, Oregon and

X by e-filing a true copy to the email address listed on the PUC website filing center:  
PUC.FilingCenter@state.or.us only.



---

JOHN A. HUDSON, OSB #74149  
of John A. Hudson Attorney at Law, LLC  
Attorney for Ellis E. Emory, President RHOA

\* \* \* \* \*

I, John A. Hudson, attorney for Ellis E. Emory, President of the Rice Hill Owner's Association, Inc., do hereby certify that the foregoing is a true copy.

---

JOHN A. HUDSON, OSB #74149  
of John A. Hudson Attorney at Law, LLC  
Attorney for Ellis E. Emory, President RHOA

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