



Oregon Water Resources Department 725  
 Summer Street NE, Suite A  
 Salem Oregon 97301-1271  
 (503) 986-0900  
 www.wrd.state.or.us

# Application for a Permit to Use Ground Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## 1. APPLICANT INFORMATION

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### A. Individuals

Applicant: \_\_\_\_\_  
First Last **WATER RESOURCES DEPT  
SALEM, OREGON**

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

Phone: \_\_\_\_\_  
Home Work Other

\*Fax: \_\_\_\_\_ \*Email Address: \_\_\_\_\_

### B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of Organization: Birkemeier Farms Inc.

Name and Title of Person Applying: Richard and Nancy Birkemeier

Mailing Address or Organization: 22186 S. Haines Road

Canby Oregon 97013  
City State Zip

Phone : (503) 266-9781 Same  
Day Evening

\*Fax: (503) 266-3873 \*Email Address: \_\_\_\_\_

\*Optional

For Department Use		
App. No. <u>G-17158</u>	Permit No. _____	Date _____

2. PROPERTY OWNERSHIP

Yes (Please check appropriate box below then skip to section 3 'Ground Water Development')

- There are no encumbrances
This land is encumbered by easements, rights of way, roads or other encumbrances (please provide a copy of the recorded deed(s))

No (Please check the appropriate box below)

- I have a recorded easement or written authorization permitting access.
I do not currently have written authorization or easement permitting access.
Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040).

You must provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.

List the names and mailing addresses of all affected landowners.

Not Applicable

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3. GROUND WATER DEVELOPMENT

A. Well Information

Number of well(s): 1

Name of nearest surface water body: Parott Creek

Distance from well(s) to nearest stream or lake:

1) ~1,600 feet 2) 3) 4)

If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head:

1) ~110 feet 2) 3) 4)

B. Well Characteristics

Wells must be constructed according to standards set by the Department for the construction and maintenance of water wells. If the well is already constructed, please enclose a copy of the well constructor's log and the well ID number, if available, for each well with this application. Identify each well with a number corresponding to the wells designated on the map and proceed to section 4 of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

Well(s) will be constructed by:

Westerberg Drilling, Inc.

Mailing Address: 36728 S. Kropf Road

Molalla

Oregon

97038

City

State

Zip

Completion Date: November 24, 2008

Please provide a description of your well development. (Attach additional sheets if needed.)

Well No.	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
1	See	CLAC	65581						

Note: Well numbers in this listing must correspond to well locations(s) shown on accompanying map.

If well log is not available, or well is not yet constructed, you must provide: proposed total depth, depth of casing and seal, and the anticipated perforation and open intervals.

**C. Artesian Flows**

If your water well is flowing artesian, describe your water control and conservation works:

None	<p><b>RECEIVED</b></p> <p><b>DEC 31 2008</b></p> <p>WATER RESOURCES DEPT SALEM, OREGON</p>
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**4. WATER USE**

Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

**A. Type(s) of Use(s)**

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water: \_\_\_\_\_
- If your proposed use is **irrigation**, please attach **Form I**
- If your proposed use is **mining**, attach **Form R**
- If your proposed use is **municipal or quasi-municipal**, attach **Form M**
- If your proposed use is **commercial/industrial**, attach **Form Q**

**B. Amount of Water**

Provide the production rate in gallons per minute (gpm) and the total annual amount of water you need from each well, from each source or aquifer, for each use. You do not need to provide source information if you are submitting a well log with your application.

Well No.	Source or aquifer	Type of use	Total rate of water requested (in gpm)	Total annual quantity (in gallons)	Production rate of well (in gpm)
1	Basalt	Nursery Operations	500	153,150,000	500 (estimated)

**C. Maximum Rate of Use Requested**

What is the maximum, instantaneous rate of water that will be used? 500 gpm (1.11 cfs)  
 (The fees for your application will be based on this amount.)

**D. Period of Use**

Indicate the time of year you propose to use the water: Year round for nursery operations  
 (For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1-October 31.)

**E. Acreage**

If you will be applying water to land, indicate the total number of acres where water will be applied or used: 94.0 Acres  
 (This number should be consistent with your application map.)

**5. WATER MANAGEMENT**

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**A. Diversion**

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What method will you use to divert water from the source?

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Pump (give horsepower and pump type): To be determined

other means (describe): \_\_\_\_\_

**B. Transport**

How will you transport water to your place of use?

Ditch or canal (give average width and depth):

Width \_\_\_\_\_ Depth \_\_\_\_\_

Is the ditch or canal to be lined?  Yes  No

Pipe (give diameter and total length):

Diameter To be determined Length To be determined

other, describe: \_\_\_\_\_

**C. Application/Distribution Method**

What equipment will you use to apply water to your place of use?

Primarily spray sticks, drip irrigation, or low pressure sprinklers

Irrigation or land application method (check all that apply):

- Flood
- Drip
- Hand Lines
- Siphon tubes or gated pipe with furrows
- other, describe: \_\_\_\_\_
- High pressure sprinkler
- Water Cannons
- Wheel Lines
- Low pressure sprinkler
- Center pivot system

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Distribution method

- Direct pipe from source
- In-line storage (tank or pond)
- Open Canal

**E. Conservation**

What methods will you use to conserve water? Why did you choose this distribution or application method? Have you considered other methods to transport, apply, distribute or use water? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

Given the expected yield from the well, drip irrigation and other water conserving application methods will have to be employed to meet all of our irrigation needs for nursery operations.

**6. PROJECT SCHEDULE**

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin: November 11, 2008

Proposed date construction will be completed: March 2010

Proposed date beneficial water use will begin: April 2010

**7. REMARKS**

*If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.*

None.

## 8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed well location and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

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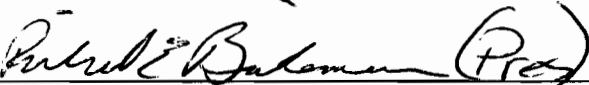
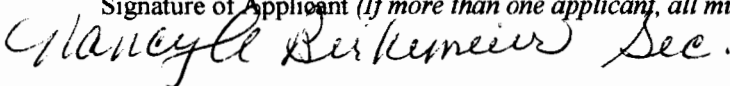
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## 9. SIGNATURE

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

I swear that all information provided in this application is true and correct to the best of my knowledge:

	12-17-08
Signature of Applicant (If more than one applicant, all must sign.)	Date
	12-17-08

Before you submit your application be sure you have:

- Answered each question completely.
- Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- Included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount. The Department's fee schedule can be found at [www.wrd.state.or.us](http://www.wrd.state.or.us) or call (503) 986-0900.

**WRD on the web:**  
[www.wrd.state.or.us](http://www.wrd.state.or.us)



Oregon Water Resources Department

**FORM I**  
**FOR IRRIGATION WATER USE**

1. Please indicate whether you are requesting a primary or supplemental irrigation water right.

**Primary**     **Supplemental**

If supplemental, please indicate the number of acres that will be irrigated for each type of use.

Primary:            94.0            Acres

Secondary:        0.0            Acres

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List the permit or certificate number of the primary water right:            No. \_\_\_\_\_

2. Please list the anticipated crops you will grow and whether you will be irrigating them for a full or partial season:

- 1. Nursery Stock (Year Round)       Full season       Partial season (from: \_\_\_\_\_ to \_\_\_\_\_)
- 2. \_\_\_\_\_                               Full season       Partial season (from: \_\_\_\_\_ to \_\_\_\_\_)
- 3. \_\_\_\_\_                               Full season       Partial season (from: \_\_\_\_\_ to \_\_\_\_\_)
- 4. \_\_\_\_\_                               Full season       Partial season (from: \_\_\_\_\_ to \_\_\_\_\_)

3. Indicate the maximum total number of acre-feet you expect to use in an irrigation season:

470.0                              acre-feet

*(1 acre-foot equals 12 inches of water spread over 1 acre, or 43,560 cubic feet, or 325,851 gallons.)*

4. How will you schedule your applications of water? Will you be applying water in the evenings, twice a week, daily?

- Daily during daytime hours                               Daily during nighttime hours
- Two or three times weekly during daytime                               Two or three times weekly during nighttime
- Weekly, during daytime hours                               Weekly, during nighttime hours
- Other, explain: \_\_\_\_\_



## Oregon Water Resources Department Land Use Information Form

*THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.*

Applicant Name: Birkemeier Farms Inc.  
 Mailing Address: 22186 S. Haines Road  
 City: Canby State: OR Zip: 97013 Day Phone: (503) 266-9781

This application is related to a Measure 37 claim.  Yes  No

### A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
3S	1E	23, 26		3 1E 26 100	EFU	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Nursery
3S	1E	26		3 1E 26 200		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Nursery
3S	1E	26		3 1E 26 2700		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Nursery
3S	1E	26		3 1E 26 2800		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Nursery

List all counties and cities where water is proposed to be diverted, conveyed, or used. Clackamas County

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### B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water       Water-Right Transfer       Exchange of Water  
 Allocation of Conserved Water       Limited Water Use License  
 Permit Amendment or Ground Water Registration Modification

Source of water:  Reservoir/Pond     Ground Water     Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: 1.11  cubic feet per second     gallons per minute     acre-feet

Intended use of water:  Irrigation     Commercial     Industrial     Domestic for \_\_\_\_\_ household(s)  
 Municipal     Quasi-municipal     Instream     Other Nursery Operations

Briefly describe: Water is to be withdrawn from a well and conveyed to the places of use for irrigation of greenhouse, container, and/or in-ground nursery stock, and for other nursery operations.

**Note to applicant:** *If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.*



### For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 401

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)  
**If approvals have been obtained but all appeal periods have not ended, check "Being pursued".**

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

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Name: Clayton G. Glasgow Title: Planner  
 Signature:  Phone: 503 742 4520 Date: 12-31-08  
 Government Entity: Clackamas County

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



67758

Westberg Drilling, Inc.
36728 S. Kropf Rd.
Molalla, OR 97038

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 537.765)

WELL ID. # 1, 93420

START CARD # 200193

Instructions for completing this report are on the last page of this form.

(1) LAND OWNER
Name Richard Birkemeier
Address 22186 S. Haines Rd.
City Canby State OR Zip 97013

(2) TYPE OF WORK
New Well
Deepening Alteration (repair/recondition) Abandonment Conversion

(3) DRILL METHOD
Rotary Air Rotary Mud Cable Auger Cable Mud
Other

(4) PROPOSED USE
Domestic Community Industrial Irrigation
Thermal Injection Livestock Other

(5) BORE HOLE CONSTRUCTION
Depth of Completed Well 293 ft.
Explosives used: Yes No Type Amount

Table with columns: BORE HOLE (Diameter, From, To), SEAL (Material, From, To), Sacks or Pounds. Includes data for 14" and 10" diameters.

How was seal placed: Method A B C D E
Backfill placed from ft. to ft. Material
Gravel placed from ft. to ft. Size of gravel

(6) CASING/LINER
Table with columns: Diameter, From, To, Gauge, Steel, Plastic, Welded, Threaded. Includes data for 8" casing and None liner.

Drive Shoe used Inside Outside None
Final location of shoe(s) N/A

(7) PERFORATIONS/SCREENS
Table with columns: From, To, Slot Number, Diameter, Tele/pipe size, Casing, Liner. Includes a 'RECEIVED' stamp.

(8) WELL TESTS: Minimum testing time is 1 hour
Pump Bailer Air Flowing Artesian
Yield gal/min Drawdown Drill stem at Time

Temperature of water 65 Depth Artesian Flow Found
Was a water analysis done? Yes By whom
Did any strata contain water not suitable for intended use? Too little
Salty Muddy Odor Colored Other
Depth of strata: RECEIVED

(9) LOCATION OF WELL (legal description)
County Clackamas
Tax Lot 2800 Lot
Township 3 S Range 1 E WM
Section 26 NE 1/4 NW 1/4
Lat Long (degrees or decimal)
Street Address of Well (or nearest address) 22186 S. Haines Rd.
Canby, OR 97013

(10) STATIC WATER LEVEL
121' ft. below land surface. Date 11-24-08
Artesian pressure lb. per square inch Date

(11) WATER BEARING ZONES
Table with columns: From, To, Estimated Flow Rate, SWL. Includes data for 87-99 and 230-293.

(12) WELL LOG
Table with columns: Soil, Material, From, To, SWL. Lists soil types like Silt brown, Sand & gravel small, etc.

(unbonded) Water Well Constructor Certification
I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards.
WWC Number 1588 Date 12-4-08
Signed [Signature]

(bonded) Water Well Constructor Certification
I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above.
WWC Number 688 Date 12-4-08
Signed [Signature]



REVISED EXHIBIT "A"

A tract of land in the Joseph Parrott D.L.C. No. 43, in Township 3 South, Range 1 East, of the Willamette Meridian, described as follows:

Beginning at a point on the North line of that tract described in fee no. 81-15336, deed records, said point being 41.25 chains North and 1503.17 feet West of the Southeast corner of said Joseph Parrott D.L.C., said point also being the Southerly Southeast corner of that tract as described in fee no. 88-2408, deed records; thence continuing West along the North line of that tract as described in fee no. 81-15336, 1582.99 feet to the Northwest corner thereof; thence North along the West line of that tract as described in Book 312, Page 118, 538.00 feet to a point 320.00 feet South of the Northwest corner thereof; thence East 330.00 feet; thence North 270.00 feet to the Southerly line of a 50.0 foot roadway; thence East along said line 1154.4 feet; thence South 10 degrees 11'30" East 43.8 feet more or less, to an iron rod; thence South 24 degrees 46'20" East 181.49 feet to an iron rod; thence South 70 degrees 47'40" East 70.62 feet to an iron rod; thence South 1 degrees 33'15" West 565.17 feet to an iron rod and the point of beginning.

SAVE AND EXCEPT a tract of land located in the Northwest one-quarter of Section 26 and in the Southwest one-quarter of Section 23, all in Township 3 South, Range 1 East of the Willamette Meridian, Clackamas County, Oregon, being further described as follows:

Beginning at the most Northerly Northwest corner of that tract of land conveyed to WILLIAM W. DOMINIAC and DELORES I. DOMINIAC by deed recorded September 22, 1988 and recorded as Document Fee Number 88-39433 Deed Records. Said beginning point being located North a distance of 41.25 chains and West a distance of 46.76 chains and North a distance of 538 feet and East a distance of 330.0 feet and North a distance of 270.0 feet from the Southeast corner of the Joseph Parrott D.L.C. #43; thence South 0 degrees 00'30" West, along a Westerly line of said Dominiac tract, and being the East line of that tract of land conveyed to THOMAS J. RAHN and CHERYL L. RAHN by deed recorded in Document Fee Number 88-39432, a distance of 270.00 feet to the Southeast corner of said Rahn tract; thence South 89 degrees 59'30" East a distance of 161.33 feet to a 5/8" diameter iron rod with a yellow plastic cap inscribed "Pacific Surveys/PLS

2319; thence North 00 degrees 00'30" East a distance of 270.00 feet to a 5/8" diameter iron rod with a yellow plastic cap inscribed "Pacific Surveys/PLS 2319" on the North line of said Dominiac tract; thence North 89 degrees 59'30" West, along said North line, a distance of 166.33 feet returning to the point of beginning.

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which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid or incurred by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured hereby; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination or other agreement affecting this deed or the lien or charge thereof; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustee's fees for any of the services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any time without notice, either in person, by agent or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the property or any part thereof, in its own name sue or otherwise collect the rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured hereby, and in such order as beneficiary may determine.

11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured hereby or in grantor's performance of any agreement hereunder, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured hereby immediately due and payable. In such an event the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured hereby whereupon the trustee shall fix the time and place of sale, give notice thereof as then required by law and proceed to foreclose this trust deed in the manner provided in ORS 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to 5 days before the date the trustee conducts the sale, the grantor or any other person so privileged by ORS 86.753, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of the truthfulness thereof. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to any successor in interest entitled to such surplus.

16. Beneficiary may from time to time appoint a successor or successors to any trustee named herein or to any successor trustee appointed hereunder. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee herein named or appointed hereunder. Each such appointment and substitution shall be made by written instrument executed by beneficiary, which, when recorded in the mortgage records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants and agrees to and with the beneficiary and the beneficiary's successor in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title thereto, except as may be set forth in an addendum or exhibit attached hereto, and that the grantor will warrant and forever defend the same against all persons whomsoever.

WARNING: Unless grantor provides beneficiary with evidence of insurance coverage as required by the contract or loan agreement between them, beneficiary may purchase insurance at grantor's expense to protect beneficiary's interest. This insurance may, but need not, also protect grantor's interest. If the collateral becomes damaged, the coverage purchased by beneficiary may not pay any claim made by or against grantor. Grantor may later cancel the coverage by providing evidence that grantor has obtained property coverage elsewhere. Grantor is responsible for the cost of any insurance coverage purchased by beneficiary, which cost may be added to grantor's contract or loan balance. If it is so added, the interest rate on the underlying contract or loan will apply to it. The effective date of coverage may be the date grantor's prior coverage lapsed or the date grantor failed to provide proof of coverage. The coverage beneficiary purchases may be considerably more expensive than insurance grantor might otherwise obtain alone and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:

- (a) primarily for grantor's personal, family or household purposes (see Important Notice below),
- (b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein.

In construing this mortgage, it is understood that the mortgagor or mortgagee may be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument the day and year first above written.

\* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor or such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose use Stevens-Nass Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

*Nancy A. Birkemeier*  
NANCY A. BIRKEMEIER

RECEIVED

STATE OF OREGON, County of ... CLACKAMAS ... ss.

This instrument was acknowledged before me on JULY 12 19 96  
by NANCY A. BIRKEMEIER

This instrument was acknowledged before me on \_\_\_\_\_ 19 \_\_\_\_  
by \_\_\_\_\_

WATER RESOURCES DEPT  
SALEM, OREGON

*[Signature]*  
Notary Public for Oregon My commission expires 12-6-98

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WATER RESOURCES DEPT  
SALEM, OREGON

OFFICIAL SEAL  
TRUE ELLIS  
NOTARY PUBLIC-OREGON  
COMMISSION NO. 038806  
MY COMMISSION EXPIRES DEC. 6, 1998

REQUEST FOR FULL RECONVEYANCE (To be used only when obligations have been paid.)

TO: \_\_\_\_\_ Trustee  
The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by the trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of the trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by the trust deed (which are delivered to you herewith together with the trust deed) and to reconvey, without warranty, to the parties designated by the terms of the trust deed the estate now held by you under the same. Mail reconveyance and documents to \_\_\_\_\_

DATED: \_\_\_\_\_, 19 \_\_\_\_

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

Beneficiary

6-758

NS

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JAN 27 2005

TRUST DEED  
NANCY A. BIRKEMEIER

WATER RESOURCES DEPT  
SALEM, OREGON

STATE OF OREGON,  
County of \_\_\_\_\_ } ss.

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ and/or as fee/file/instrument/microfilm/reception No. \_\_\_\_\_. Record of \_\_\_\_\_ of said County. Witness my hand and seal of County affixed.

SPACE RESERVED FOR RECORDER'S USE

RECEIVED

DEC 31 2008

By \_\_\_\_\_, Deputy.  
WATER RESOURCES DEPT  
SALEM, OREGON

Grantor's Name and Address  
WILLIAM W. DOMINIAK  
DELORES I. DOMINIAK  
Beneficiary's Name and Address  
GUARDIAN CONTRACT SERVICES  
P.O. BOX 2316  
LAKE OSWEGO, OR 97035

After recording, return to (Name, Address, Zip):

THIS TRUST DEED, made this 12 day of JULY, 19 96, between NANCY A. BIRKEMEIER

STEWART TITLE OF OREGON, INC., as Grantor, as Trustee, and

WILLIAM W. DOMINIAK AND DELORES I. DOMINIAK, HUSBAND AND WIFE, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in CLACKAMAS County, Oregon, described as:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the sum of ONE HUNDRED THOUSAND DOLLARS AND 00/100 \*\*\*\*\* \$100,000.00 \*\*\*\*\* Dollars, with interest thereon according to the terms of a promissory note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, it not sooner paid, to be due and payable JULY 18, 19 2006

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. Should the grantor either agree to, attempt to, or actually sell, convey, or assign all (or any part) of the property or all (or any part) of grantor's interest in it without first obtaining the written consent or approval of the beneficiary, then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or herein, shall become immediately due and payable. The execution by grantor of an earnest money agreement\*\* does not constitute a sale, conveyance or assignment.

To protect the security of this trust deed, grantor agrees:

- To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement thereon; not to commit or permit any waste of the property.
- To complete or restore promptly and in good and habitable condition any building or improvement which may be constructed, damaged or destroyed thereon, and pay when due all costs incurred therefor.
- To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
- To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than \$INSURABLE VALUE written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured hereby and in such order as beneficiary may determine, or at option of beneficiary the entire amount so collected, or any part thereof, may be released to grantor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- To keep the property free from construction liens and to pay all taxes, assessments and other charges that may be levied or assessed upon or against the property before any part of such taxes, assessments and other charges become past due or delinquent and promptly deliver receipts therefor to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment thereof, and the amount so paid, with interest at the rate set forth in the note secured hereby, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants hereof and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation herein described, and all such payments shall be immediately due and payable without notice, and the nonpayment thereof shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.
- To pay all costs, fees and expenses of this trust including the cost of title search as well as the other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's and attorney's fees actually incurred.
- To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this deed or any suit or action related to this instrument, including but not limited to its validity and/or enforceability, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney fees; the amount of attorney fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of an appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum at the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney fees on such appeal. It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking,

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.585.

\*\*WARNING: 12 USC 1701j-3 regulates and may prohibit exercise of this option.

\*\*The publisher suggests that such an agreement address the issue of obtaining beneficiary's consent in complete detail.

6-7158

of the Walter Fish Donation... corner of that certain tract of land conveyed to C. and Augusta Dietze by deed recorded in Book 138, at Page 362, Record of Deeds of Clackamas County, Oregon; Thence South tracing the West boundary of said tract 17.34 chains; Thence West 46.10 chains; Thence North 17.34 chains to the place of beginning.

ALSO: A part of the Walter Fish and wife Donation Land Claim No. 45 in Township 3 South, Range 1 East of the Willamette Meridian, described as:

All that part of the following described real property to-wit: Beginning at an iron casting set in the South boundary of said Walter Fish Donation Land Claim at a point that is 59 chains East of the Southwest corner of said Donation Land Claim; Thence West tracing the South boundary of said Donation Land Claim 1378.5 feet, more or less, to an iron casting set at the intersection of the South boundary of said Donation Land Claim with the Easterly line of the Pacific Highway as now located; Thence tracing the Easterly side line of said Highway North 26° 07' East 3090.0 feet, more or less, to an iron casting set at the intersection of the Easterly side line of said Highway with the Easterly boundary of land conveyed to Albin P. Erickson and wife, by deed recorded in Book 162 at page 403; Thence Southerly tracing the Easterly boundary of said Albin P. Erickson land 2759.4 feet to the place of beginning; which lies North of a line described as follows: Beginning at a point which is 19 chains East and 17.34 chains South of the Southwest corner of the Joseph Parrott Donation Land Claim No. 43, Township 3 South, Range 1 East of the Willamette Meridian, which is also a re-entrant corner on the North boundary of the Walter Fish Donation Land Claim, said dividing line to run West from this last mentioned beginning point to the Easterly line of said Pacific Highway, a distance of 29 rods, more or less.

ALSO: Lot One (1), Section 26, Township 3 South, Range 1 East of the Willamette Meridian 6.40 Acres.

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SALEM, OREGON

6

Exhibit "A" page 5

STATE OF OREGON )  
County of Clackamas ) ss.

I, George D. Poppen, County Clerk, Ex-Officio Recorder of Conveyances and Ex-Officio Clerk of the Circuit Court of the State of Oregon, for the County of Clackamas, do hereby certify that the within instrument of writing was received for and recorded in the records of said county at

81 MAY 4 9:35



Witness my hand and seal this 4th day of May 2005.  
*George D. Poppen*  
GEORGE D. POPPEN  
County Clerk

Recording Certificate

CCP-R4 81 15336

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SALEM, OREGON



The following parcel of real property located in Clackamas County, Oregon, to-wit:

Beginning at a point 19.50 chains East of the Southwest corner of the Joseph Parrott Donation Land Claim No. 43 in Section 26, Township 3 South, Range 1 East of the Willamette Meridian, and running thence North 5° 15' East 14.11 chains; Thence East 48.88 chains; Thence South 14.14 chains to the Southeast corner of said Donation Land Claim No. 43; Thence West 50.34 chains to the place of beginning.

ALSO: Beginning at an iron pipe driven at the Northwest corner of that certain tract of land conveyed to Reinhold and Minnie Keil, by deed recorded in Book 164 at page 528, Record of Deeds of Clackamas County, Oregon, which point is 28.53 chains North and 23.91 chains West of the Southeast corner of the Joseph Parrott Donation Land Claim No. 43, Township 3 South, Range 1 East of the Willamette Meridian; Running thence West tracing the North line of the land conveyed to George H. Brown by deed recorded March 11, 1908, in Book 102 of Deeds, page 491, 23.87 chains to the Northwest corner thereof; Thence South 5° 15' West 14.44 chains; Thence East 24.97 chains to the Southwest corner of the Reinhold and Minnie Keil tract, aforesaid; Thence North 14.39 chains to the place of beginning; EXCEPT, the perpetual use of a strip of land 12 feet wide extending along the North line reserved for road purposes.

ALSO: Beginning at a point in the North line of the Walter Fish Donation Land Claim No. 45, Township 3 South, Range 1 East of the Willamette Meridian, which point is 19.00 chains East of the Southwest corner of the Joseph Parrott Donation Land Claim No. 43, said Township and Range; running thence East 46.10 chains tracing the North boundary of the Walter Fish Donation Land Claim to the Northwest corner of that certain tract of land conveyed to C. and Augusta Dietze by deed recorded in Book 138, at Page 362, Record of Deeds of Clackamas County, Oregon; Thence South tracing the West boundary of said tract 17.34 chains; Thence West 46.10 chains; Thence North 17.34 chains to the place of beginning.

ALSO: A part of the Walter Fish and wife Donation Land Claim No. 45 in Township 3 South, Range 1 East of the Willamette Meridian, described as:

All that part of the following described real property to-wit: Beginning at an iron casting set in the South boundary of said Walter Fish Donation Land Claim at a point that is 59 chains East of the Southwest corner of said Donation Land Claim; Thence West tracing the South boundary of said Donation Land Claim 1378.5 feet, more or less, to an iron casting set at the intersection of the South boundary of said Donation Land Claim with the Easterly line of the Pacific Highway as now located; Thence tracing the Easterly side line of said Highway North 26° 07' East 3090.0 feet, more or less, to an iron casting set at the intersection of the Easterly side line of said Highway with the Easterly boundary of land conveyed to Albin P. Erickson and wife, by deed recorded in Book 162 at page 403; Thence Southerly tracing the Easterly boundary of said Albin P. Erickson land 2759.4 feet to the place of beginning; which lies North of a line described as follows: Beginning at a point which is 19 chains East and 17.34 chains South of the Southwest corner of the Joseph Parrott Donation Land Claim No. 43, Township 3 South, Range 1 East of the Willamette Meridian, which is also a re-entrant corner on the North boundary of the Walter Fish Donation Land Claim, said dividing line to run West from this last mentioned beginning point to the Easterly line of said Pacific Highway, a distance of 29 rods, more or less.

ALSO: Lot One (1), Section 26, Township 3 South, Range 1 East of the Willamette Meridian 6.40 Acres.

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WATER RESOURCES DEPT  
SALEM, OREGON

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WATER RESOURCES DEPT  
SALEM, OREGON

1967

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.



64758

KNOW ALL MEN BY THESE PRESENTS, That Edwin L. Johnson and Wade Strouger,  
 Co-Executors of the ESTATE OF ELLA W. WEYGANDT, deceased  
 \_\_\_\_\_, hereinafter called grantor,  
 for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto  
RICHARD BIRKEMEIER and MARGARET BIRKEMEIER, husband and wife  
 \_\_\_\_\_  
 hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property with the  
 tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County  
 of Clackamas \_\_\_\_\_, State of Oregon, described as follows, to-wit:

Beginning at a point in the East line of the Joseph Parrot and wife  
 D. D. C. No. 43, T. 3 S., R. 1 E., of the W. M., 28352 chains North  
 of the Southeast corner thereof; running thence North along the East  
 line of said claim 12.73 chains; thence West 46.76 chains; thence  
 South 5° 15' West 12.80 chains; then East 47.78 chains to the point  
 of beginning,

SUBJECT TO Easement to Portland General Electric Company, recorded  
 Deed Records May 2, 1953 as Fee No. 5808, Book 468, Page 447 and

SUBJECT TO zoning ordinances, building and use restrictions, conditions  
 and restrictions of record, if any. X X X X X X X X X X

Insured by  
 The Insurance Company

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SALEM, OREGON

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SALEM, OREGON

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.  
 The true and actual consideration paid for this transfer, stated in terms of dollars, is \$83,500.00

~~It is hereby agreed that the above consideration contains and includes the value of the property conveyed and no other consideration is to be given or promised which is to be taken into consideration in the event of any dispute.~~

In construing this deed the singular includes the plural as the circumstances may require.

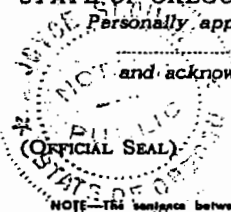
Witness grantor's hand this 25th day of March, 1971

ESTATE OF ELLA W. WEYGANDT By Edwin L. Johnson  
 By Wade Strouger  
 Co-Executors

STATE OF OREGON, County of Clackamas ) ss. March, 1971  
 Personally appeared the above named Edwin L. Johnson and Wade Strouger

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me: Joyce Slough  
 Notary Public for Oregon  
 My commission expires November 17, 1974



NOTE—The sentence between the symbols ( ) . If not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by the 1967 Special Session.

Bargain and Sale Deed

Edwin L. Johnson &  
 Wade Strouger, Co-Executors  
 ESTATE OF ELLA W. WEYGANDT  
 TO  
 RICHARD BIRKEMEIER &  
 MARGARET BIRKEMEIER

AFTER RECORDING RETURN TO

Richard Birkemeier  
Route 1, Box 326  
Conley, Oregon

No. \_\_\_\_\_

STATE OF OREGON, )  
 County of Clackamas, ) ss.  
 I, George D. Poppen, County Clerk, Ex-Officio  
 Recorder of Conveyances and Ex-Officio Clerk  
 of the Circuit Court of the State of Oregon,  
 do hereby certify that the within instrument of writing was received of me  
 and recorded in the records of said  
 County of Clackamas, Oregon, in Book 505-365  
 Page 11 this 26th day of March, 1971



Witness my hand and seal this 26th day of March, 1971  
George D. Poppen  
 County Clerk  
 Deputy  
J. Swadell  
 Recording Certificate