



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem Oregon 97301-1266
 (503) 986-0900
 www.wrd.state.or.us

Application for a Permit to Use Surface 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.

1. APPLICANT INFORMATION

A. Applicants

Applicant: n/a
First Last

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: Anglers Cove/Shady Cove Heights Water Company

Name and Title of Person Applying: Edward P. Kessler, President

Mailing Address or Organization: P. O. Box ~~1029~~ 412

Shady Cove Oregon 97539
City State Zip

Phone : 541-944-7593 541-878-2498
Day Evening

*Fax: _____ *Email Address: eckessler@embarqmail.com

*Optional

For Department Use		
App. No. <u>S-87409</u>	Permit No. _____	Date _____

Last Updated: 6/25/2008

Surface Water/1

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2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: <u>Lost Creek Lake</u>	Tributary to: <u>Rogue River</u>
Source 2: _____	Tributary to: _____
Source 3: _____	Tributary to: _____
Source 4: _____	Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

See attached EXHIBIT #1 Original Storage Agreement (12 acre-feet)
EXHIBIT #2 New Storage Agreement (5 acre-feet)

B. Applications to Use Stored Water

Complete this section if any source listed in item 2A above is stored water.

Do you, or will you, own the reservoir(s) described in item 2A above?

- Yes
- No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 2A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

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C. Property Ownership

Do you own all the land where you propose to divert, transport, and use water?

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

- 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.

See Attached: Exhibit #3 -Water Supply Declaration, Agreement & Easement
Exhibit #4 -Names & Addresses of Owners

3. 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**

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B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

Source	Type of use	Amount
Rogue River	Quasi-Municipal	12 <input type="radio"/> cfs <input type="radio"/> gpm <input checked="" type="radio"/> af
Rogue River	Quasi-Municipal	5 <input type="radio"/> cfs <input type="radio"/> gpm <input checked="" type="radio"/> af
		<input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af

C. Period of Use

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

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

4. WATER MANAGEMENT

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): 3 Hp. submersible pump
- Head-gate (give dimensions): _____
- other means (describe): _____

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B. Monitoring

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

- Weir
- Meter
- Periodic Sampling
- other means (describe): _____

C. 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 2 inch Length 520 Ft. to pump house/Treatment Plant

other, describe: _____

D. Application/Distribution Method

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

Water is provided to each home for quasi-municipal use and is treated from the plant. Each home has a meter that is read and charge to the end user by rates now set by the PUC.

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

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.

Each household makes that decision and all water is metered to the end user and all rates will be in effect through the PUC. This year we have seen a decrease in usage per household by over 15%.

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5. RESOURCE PROTECTION

A. Protection Practices

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

- Diversion will be screened to prevent uptake of fish and other aquatic life. Describe planned actions:

N/A

- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions:

N/A

- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe:

N/A

- Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe:

N/A

- Other:

The system and equipment has been in place and operating since September 2002. This application is for the new 5 acre-feet of water storage to be combined with the original 12 acre-feet of water storage. There is no planned construction or have any changes to the waterway or streamside area with this application.

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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: January 2002

Proposed date construction will be completed: September 2002

Proposed date beneficial water use will begin: October 2002

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.

This application is for the transfer of the usage permit for the original 12 acre-feet of water from the city of Shady Cove, Oregon to Angler's Cove/Shady Cove Heights Water Company (see Exhibit #5). At the time of the purchase of the 12 acre-feet of water a private company could not apply for a usage permit or water storage.
Larry Menteeer, Jackson County, recommended that we apply for the transfer of the original 12acre-feet along with the new 5 acre-feet usage permit. The additional 5 acre-feet of water will not be in use until the remaining 7 vacant lots are built on, some of the lots maybe subdivided for more water use in the future. In the last 3 years the metered use has not exceeded 10 acre-feet of water. The 5 acre-feet of water was purchased for a safety zone and for future development.

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 points of diversion and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

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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:



2-24-09

Signature of Applicant (If more than one applicant, all must sign.)

Date

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 or call (503) 986-0900.

WRD on the web:
www.wrd.state.or.us

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Oregon Water Resources Department

FORM M

FOR MUNICIPAL AND QUASI MUNICIPAL WATER SUPPLIES

Unless otherwise noted, water use information should be in acre-feet per year (AFY).
1 acre-foot is equal to 325,851 gallons.

Background Information

Name of water supplier: Lost Creek Lake

Name and size of area to be served: less than 1 sq. mile
(in square miles)

Present population of service area: 108
(Contact county planning staff, if needed.)

Projected population in 20 years: 150 due to undeveloped properties
(Cite source and year. For example: "20,595 Based upon 1995 Portland State University projections.")

List present water rights and permits held:

Date of Issuance:	Natural Source of Water:	Amount Permitted:	Utilization:
<u>July 15, 2002</u>	<u>Lost Creek Lake</u>	<u>12 acre-feet</u>	<u>Quasi-municipal</u>
<u>November 27, 2007</u>	<u>Lost Creek Lake</u>	<u>5 acre-feet</u>	<u>Quasi-municipal</u>

Water Use

Average yearly demand: 5.76 AFY Year: 2008

Per-capita daily consumption (in gallons): 47.61 gallons / day
(Divide average annual water sales by population to arrive at consumption, then divide by 365 to get daily values.)

Peak season (by month/day): 7/31 to 8/31 Total peak season demand: .67 Acre-feet

Peak season per-capita daily consumption: 67.8 gallons / day
(Divide total peak season demand by population and the number of days during the peak.)

Annual amount of water:

produced: 1,876,350 gallons for 2008
(diverted or pumped)

delivered: 0 delivered by outside source

Is your system fully metered? Yes No

Describe your rate structure: See a copy of the current Oregon PUC rate schedule
(e.g. flat rate, increasing or decreasing block rate or combination of different systems)

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Request for Water**A. Discuss the reason(s) for your request for additional water**

(e.g. loss of current supply, peak demand, growth, or other): This is a request to combine the original 12 acre-feet of water to the new 5 acre-feet. The reason for the extra 5 acre-feet was for a safety zone due to the fact that in 2005 the 35 homes used over 10 acre-feet of water and for future development of the properties.

B. How long is the amount of water requested in this application expected to meet future needs?

(e.g. until the year 2040) There is no foreseeable need for more water for the next 25 years (2035).

C. Briefly discuss operation of water system and the most constraining component of the system:

The system is working at approx. 40% of capacity. The normal demand of treated water is 20 gallons / min and the filtering system is rated at 70 gallons / min.

D. Percentage of water use by type:

Residential: 100%

Commercial: _____

Public Authority: _____

Agricultural: _____

Unaccounted for use: _____

Industrial: 100%

Other (specify use): _____

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SALEM, OREGON**E. List cost to implement proposed request.**

Compare cost and benefits with other water supply, or combination of supply options. This should include water efficiency measures such as replacing current showerheads with low-flow types. (Attach documentation, as available.)

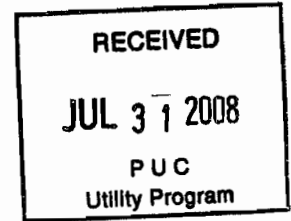
More than half of the owners have already seen what "no water" means to a household. In 2001 the old system failed and many of them had water delivered to holding tanks. Without this source of water most of the new homes would have never been built after August of 2001. Bottom line with out this source there is no option other than delivered water to holding tanks.

F. How and by how much will your proposed water use efficiency programs increase efficiency?

(Express as a percentage of per-capita consumption.)

From a flat rate schedule per month, we started a metered rate schedule in January 2007 and then August 1, 2008 the company put into effect the new metered rate schedule from the Oregon PUC. During this 2 year period the consumption has dropped by over 30%.

SCHEDULE NO. 1
RESIDENTIAL METERED RATES



Available: To customers of the Utility at Shady Cove, Oregon, and vicinity.

Applicable: To residential premises.

Base Rate

Service Meter Size	Monthly Base Rate	Usage Allowance	Unit of Measure
5/8 or 3/4 inch	\$30.00	None	<input type="checkbox"/> cubic feet
			<input type="checkbox"/> gallons
1 inch	\$30.00	None	<input type="checkbox"/> cubic feet
			<input type="checkbox"/> gallons
1½ inches	\$30.00	None	<input type="checkbox"/> cubic feet
			<input type="checkbox"/> gallons

Commodity Usage Rate

Commodity Rate	Number of Units	Unit of Measure	Base Usage Allowance	Unit of Measure
\$.0050	Per One (1)	<input checked="" type="checkbox"/> gallons	Up to 4,500	<input checked="" type="checkbox"/> gallons
\$.0119	Per One (1)	<input checked="" type="checkbox"/> gallons	Above 4,500	<input checked="" type="checkbox"/> gallons

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.

Issue Date	Effective Date	August 1, 2008
Issued By	ANGLERS COVE SHADY COVE HEIGHTS WATER COMPANY	
Signature	RECEIVED	
Name & Title	MAR 02 2009	

WATER RESOURCES DEPT
 SALES SERVICE

ADVICE NO. 08-32
 (PUC USE ONLY)



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: ANGLERS COVE / SHADY COVE HEIGHTS WATER CO.
Mailing Address: P.O. Box 412
City: SHADY COVE State: OR Zip: 97539 Day Phone: 541-944-7593

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	1/4 1/4	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
		<u>SEE ATTACHED</u>				<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

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

B. Description of Proposed Use

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

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

Source of water: Reservoir/Pond Ground Water Surface Water (name) LOST CREEK DAM

Estimated quantity of water needed: 17 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 _____

Briefly describe: THIS WATER WILL BE USED FOR HOUSEHOLD USE / QUASI-MUNICIPAL

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.

Receipt for Request for Land Use Information

State of Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

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SALEM, OREGON

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): _____

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:	
NA	NA	<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.

None

Name: Elise A Smorzynski Title: City Administrator
Signature: Elise A Smorzynski Phone: 541 872 3757 Date: 3-20-2009
Government Entity: City of Shady Cove OR

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.

Receipt for Request for Land Use Information

Applicant name: _____
City or County: _____ Staff contact: _____
Signature: _____ Phone: _____ Date: _____

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SALEM, OREGON

EXHIBIT E

Legal Description of the Lots

February 9, 2009

Anglers Cove Subdivision

341W15BD 300
341W15BD 301
341W15BD 302
341W15BD 303
341W15BD 304
341W15BD 305
341W15BD 306
341W15BD 307
341W15BD 308
341W15BD 309
341W15BD 310
341W15BD 311
341W15BD 312
341W15BD 313
341W15BD 314

Shady Cove Heights Subdivision

341W15DB 101
341W15DB 102
341W15DB 103
341W15DB 104
341W15DB 105
341W15DB 106
341W15DB 107
341W15DB 108
341W15DB 109
341W15DB 111
341W15DB 112
341W15DB 113
341W15DB 114
341W15DB 118

Old Ferry Road/Quail Run Drive

341W15DB 200
341W15DB 300
341W15DB 400
341W15DB 500
341W15DB 600
341W15DB 700
341W15DB 701
341W15DB 800
341W15DB 804
341W15DB 802
341W15DB 803/901
341W15DB 900/116
341W15DB 1200
341W15DB 1300

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WATER RESOURCES DEPT
SALEM, OREGON

TRANSFER AND ASSIGNMENT OF A WATER STORAGE AGREEMENT **RECEIVED**
BETWEEN THE UNITED STATES OF AMERICA

MAR 02 2009

WATER RESOURCES DEPT
SALEM, OREGON

AND

THE CITY OF SHADY COVE, SHADY COVE, OREGON

TO

ANGLER'S COVE / SHADY COVE HEIGHTS WATER COMPANY, SHADY COVE,
OREGON

FOR

ORIGINALLY AUTHORIZED WATER STORAGE SPACE IN
LOST CREEK LAKE PROJECT, OREGON

THIS TRANSFER AND ASSIGNMENT, executed this 18 day of July, 2008, to be effective when signed by the Secretary of the Army represented by the District Engineer, by and between the City of Shady Cove (hereinafter called the "Assignor") and Angler's Cove / Shady Cove Heights Water Company, an Oregon non-profit corporation (hereinafter called the "Assignee");

WITNESSETH THAT:

WHEREAS, on the 15th day of June 2002, the City of Shady Cove entered into a water storage agreement with the United States of America for 12 acre-feet of water supply storage in Lost Creek Lake Project on the Rogue River, Oregon; and

WHEREAS, Angler's Cove / Shady Cove Heights Water Company, an Oregon non-profit corporation, is a water association with members (Domestic Nonprofit Mutual Benefit Corporation) located in Shady Cove, Oregon that provides domestic residential water service. On the 27th day of July 2006, Assignee became a financially regulated water utility.

WHEREAS, effective the 11th day of June 2008, subject to the approval of the Secretary of the Army or his duly authorized representative, Assignor desires to transfer certain properties, including all its rights, benefits, duties, and responsibilities under said water supply agreement, to Assignee; and

WHEREAS, such an assignment is contemplated by Article 10 on page 7 of said agreement, subject to approval of the Secretary of the Army of the United States, or his duly authorized representative; and

WHEREAS, the Assignee has agreed to assume and timely discharge all of the duties and responsibilities imposed on the Assignor under the terms of the Agreement and further agrees to hold

the Assignor harmless from all loss, cost, expense, damage or attorney fees which might accrue by virtue of any failure of the Assignee to discharge the duties and responsibilities under the Agreement;

NOW THEREFOR, in consideration for such a transfer and assignment and approval by the Secretary of the Army of the United States, or his duly authorized representative, the Assignee does hereby agree to pay any monies due under the Agreement and discharge all other duties there under and hold the Assignor harmless from all loss, cost, expense, damage or attorney fees which might accrue by virtue of the Assignee to timely discharge its duties under the Agreement here assigned.

The undersigned, of Angler's Cove / Shady Cove Heights Water Company, on behalf of said corporation, does hereby accept the above and foregoing assignment and agrees to abide by all of its terms and conditions and all terms and conditions of the Agreement.

CITY OF SHADY COVE, OR

ANGLER'S COVE / SHADY COVE HEIGHTS
WATER COMPANY

By Ruth Keith
RUTH KEITH
Mayor of Shady Cove, Oregon

By Edward P. Kessler
EDWARD P. KESSLER
President / Chairman, Angler's Cove / Shady Cove
Heights Water Company, an Oregon non-profit
corporation

DATE: 6/24/2008
Day-Month-Year

DATE: 6/17/08
Day-Month-Year

APPROVED:

THE UNITED STATES OF AMERICA

By S. Miles
for STEVEN R. MILES
Colonel, Corps of Engineers
District Engineer/District Commander

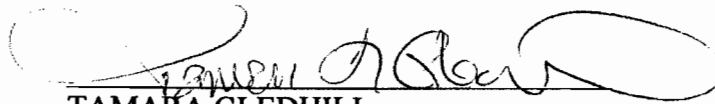
DATE: 17 Jul 08
Day-Month-Year

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SALEM, OREGON

EXHIBIT A: CERTIFICATION

I Tamara Gledhill Attorney for the Angler's Cove / Shady Cove Heights Water Company, hereby certify that the foregoing assignment executed by Edward P. Kessler, President / Chairman of Angler's Cove / Shady Cove Heights Water Company, an Oregon non-profit corporation, is within the scope of his authority to act upon behalf of Angler's Cove / Shady Cove Heights Water Company, and that in my capacity as Attorney for the Company, I have considered the legal effect of Section 221 of the 1970 Flood Control Act (Public Law 91-611) and find that the Company is legally capable of entering into the obligations contained in the foregoing agreement and that, upon acceptance, it will be legally enforceable.

Given under my hand, this 17 day of June 2008



TAMARA GLEDHILL

Attorney for Angler's Cove / Shady Cove Heights Water Company

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WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT E
Legal Description of the Lots

Anglers Cove Subdivision

- 341W15BD 301
- 341W15BD 302
- 341W15BD 303
- 341W15BD 304
- 341W15BD 305
- 341W15BD 306
- 341W15BD 307
- 341W15BD 308
- 341W15BD 309
- 341W15BD 310
- 341W15BD 311
- 341W15BD 312
- 341W15BD 313
- 341W15BD 314
- 341W15BD 315

Shady Cove Heights Subdivision

- 341W15DB 101
- 341W15DB 102
- 341W15DB 103
- 341W15DB 104
- 341W15DB 105
- 341W15DB 106
- 341W15DB 107
- 341W15DB 108
- 341W15DB 109
- 341W15DB 111
- 341W15DB 112
- 341W15DB 113
- 341W15DB 114

Old Ferry Road/Quail Run Drive

- 341W15DB 200
- 341W15DB 300
- 341W15DB 400
- 341W15DB 500
- 341W15DB 600
- 341W15DB 700
- 341W15DB 701
- 341W15DB 800
- 341W15DB 804
- 341W15DB 802
- 341W15DB 803/901
- 341W15DB 900/116
- 341W15DB 1200
- 341W15DB 1300

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EXHIBIT F
Design & Construction Expenses

ANGLERS COVE/SHADY COVE HEIGHTS WATER ASSOCIATION COSTS OF CONSTRUCTION			
COMPANY	DESCRIPTION	MIKE	ANGLERS
Granger Pump	#5954		\$ 3,413.00
City of Shady Cove	Comp. Contract, Quail Run	\$ 7,255.00	\$ 3,887.00
*Phil Tallman Construction	Quail Run - exp. only - ditch	\$ 1,200.00	
*Granger Pump	#5877 - Run pipe up to S.C.H.	\$ 1,960.00	
*Brotherton Pipe	Pipe under road - S.C.H.	\$ 1,800.00	
Eagle Point Electric	#1558 - Wire pumps		\$ 421.00
LEI Engineering			\$ 200.00
Kaiser Surveying			\$ 126.25
Crystal Clean Products	Water tests		\$ 1,000.00
LEI Engineering			\$ 261.50
City of Shady Cove	Building permit		\$ 150.00
LEI Engineering			\$ 316.00
One State Water Res.			\$ 100.00
Kaiser Surveying			\$ 875.00
Furrow Pump			\$ 2,159.28
Bill Steadman			\$ 915.00
Granger Pump	#5954	\$ 6,370.00	
HACH	Chemical pumps		\$ 3,904.95
Bill Steadman	#200536 - Sewer connection		\$ 1,038.50
U-Save	Tank unload		\$ 65.00
Eagle Point Electric			\$ 967.71
Gannitl Callagan Co.	Chemical		\$ 687.80
LEI Engineering			\$ 210.00
PP & L			\$ 86.65
Rod Govenor Construction	#192178 - Pump house construction	\$ 1,796.00	
Royal Gasso	Plant start up	\$ 510.00	
NCL	Plant equipment	\$ 292.78	
Neilson Research		\$ 19.00	
HACH	Water plant equipment	\$ 192.00	
Dan Perkins	Plant oper.	\$ 1,000.00	
LEI Engineering			\$ 105.00
Neilson Research			\$ 19.00
HNS Water Plant Books	Credit card - 55 + 119	\$ 274.00	
Rod Govenor Construction	Plant construction	\$ 1,997.00	
*Granger Pump	#6011 - 13,440 - 2,500 SCH Pump	\$ 13,440.00	
Rod Govenor Construction	Plant construction	\$ 3,281.00	
Dan Perkins		\$ 1,081.23	
Lowes	Heater	\$ 37.98	
Wilson Heingood Insurance		\$ 2,956.00	
CSUS	Found book	\$ 55.00	
Medford Mechanical		\$ 150.00	
Neilson Research		\$ 1,821.00	
Bill Steadman		\$ 155.00	
Mike Hunt	BLD	\$ 2,775.00	
HACH		\$ 83.00	
PP & L			\$ 72.28
Furrow Pump		\$ 830.72	
	TOTALS	\$ 51,331.71	\$ 20,980.92
	GRAND TOTAL (BOTH)	\$ 72,312.63	

\$72,312.63 - \$7,460 (SCH SHARE) - \$64,852.63

* - Extra expenses to bring water to Shady Cove Heights \$7,460/26 users - \$286.92

Estimated 41 Total users - \$64,852.63/41 Users - \$1,581.75 - Anglers Cove + 286.92 - SCH Additional Expense
Totals: \$1,868.67 - Shady Cove Heights Users Share

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EXHIBIT A
List of Lot Owners

Anglers Cove Subdivision

- Dan & Pamela Sieg (Lot 1)
- Robert & Joann Braun (Lot 2)
- Brian Magel (Lot 3)
- Ronald Walker (Lot 4)
- Dan & Shirley Marshman (Lot 5)
- Edward & Connie Kessler (Lot 6)
- Robert Kolodny (Lot 7)
- Richard Patterson (Lot 8)
- Daniel & Deborah Perkins (Lot 9)
- Alan & Lynn Ludwick (Lot 10)
- Darrell & Julie Goodwine (Lot 11)
- John & Lynn Atkeson (Lot 12)
- Robert & Lynnette Yosida (Lot 13)
- Kenneth & Cathy Gerlitz (Lot 14)
- Robert & Elizabeth Sies (Lot 15)

Shady Cove Heights Subdivision

- Joseph & Teresa Vaughan (Lot 1)
- Paul & Rhonda Podesta (Lot 2)
- James Unsinn (Lot 3)
- Geoffrey & Jennifer Bechtold (Lot 4)
- Michael & Robin Underwood (Lot 5)
- Donald & Lois Biggs (Lot 6)
- Sterling & Shannon Miller (Lot 7)
- Robert Fitch & Anita Markel (Lot 8)
- Phillip & Ruth Keith (Lot 9)
- Kenneth & Joan Payzant (Lot 11)
- Kimberly Bricker (Lot 12)
- Slade & Molly Bittler (Lot 13)
- Douglas & Jae-Lynn Bresette (Lot 14)

Old Ferry Road/Quail Run Drive

- Stephen Clemens (Lot 200)
- Jerry & Cindy Lockin (Lot 300)
- James & Marsha Duffield (Lot 400)
- Mike & Deborah Moynihan (Lot 500)
- Robert & Linda Wheeler (Lot 600)
- Wilfred & Dottie Mattos (Lot 700)
- Roy & Kathleen Ward (Lot 701)
- Jeff Poulsen (Lot 800)
- Raymond & Carole Campbell (Lot 804)
- Steve & Mary Stewart (Lot 802)
- Eric & Connie Wheale (Lot 803/901)
- George Gray (Lot 900/116)
- John & Nancy Stafford (Lot 1200)
- Arnold & Marie Steinbeck (Lot 1300)

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SALEM, OREGON

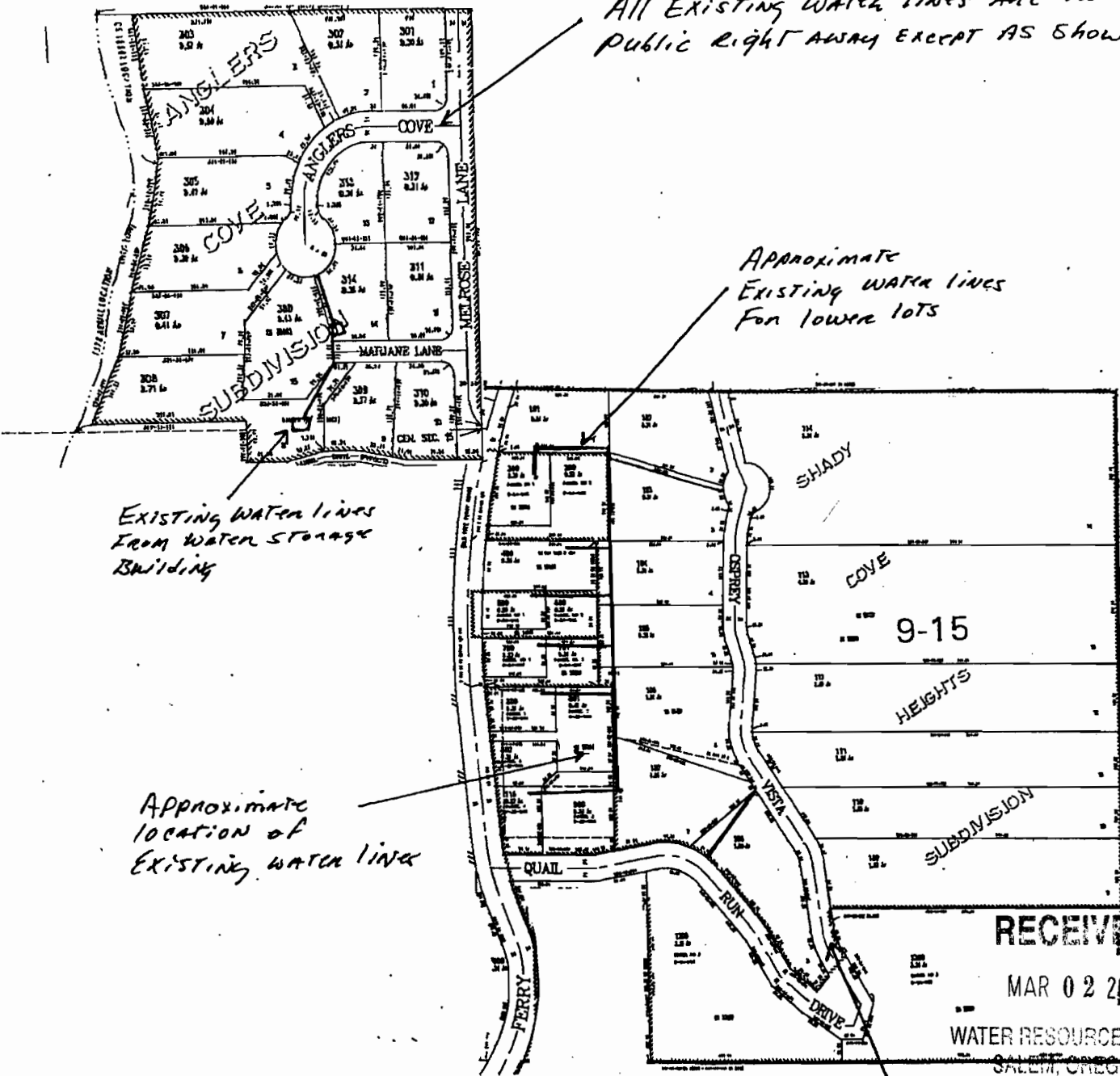
EXHIBIT B Plan of Existing Easements

All Existing Water Lines are in Public Right of Way EXCEPT AS SHOWN

Approximate Existing Water Lines for lower lots

Existing Water Lines from Water Storage Building

Approximate location of Existing water lines



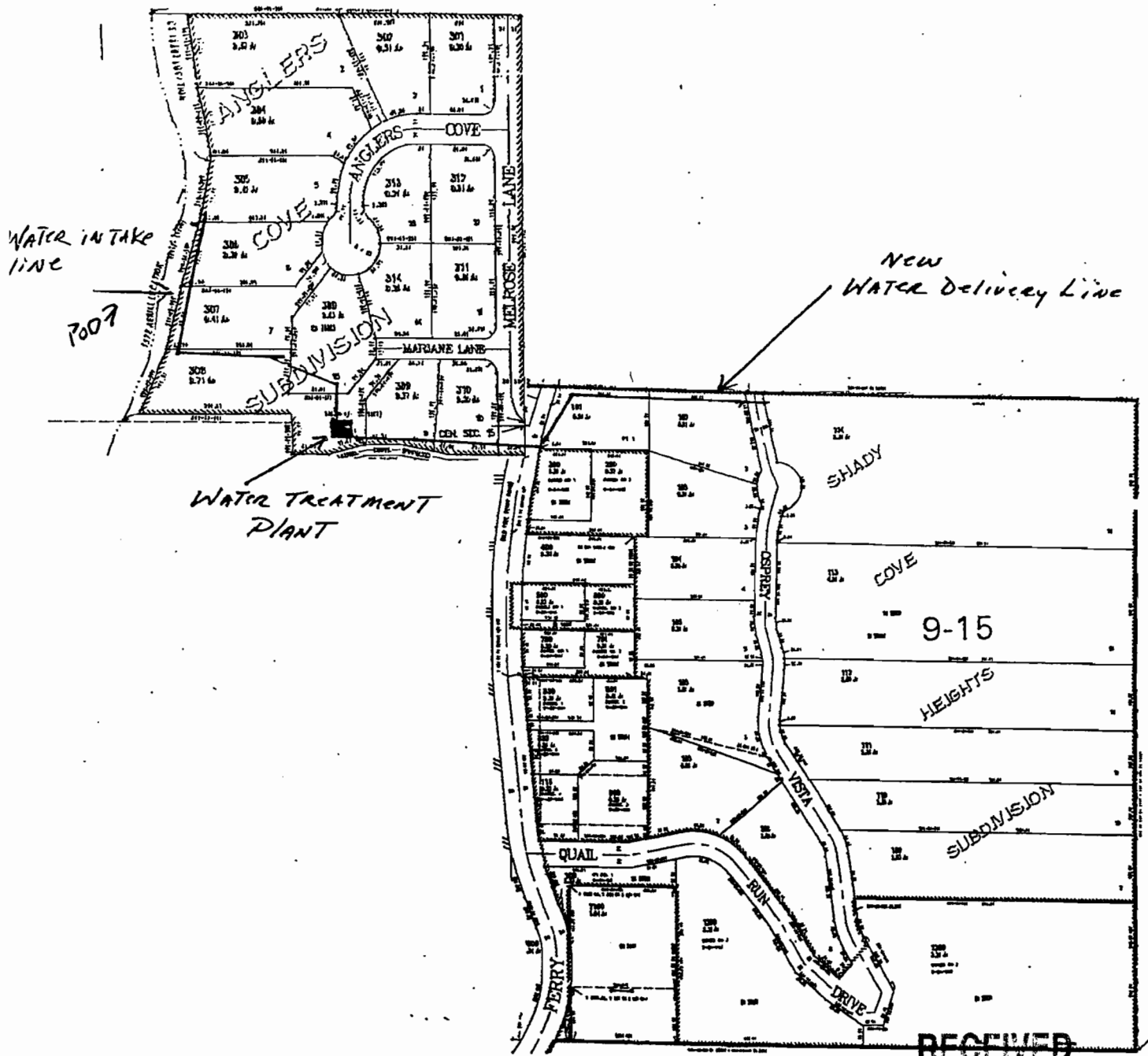
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SALEM, OREGON

All Existing Water Lines for SHADY COVE Heights Sub. are in city Right of Way.

EXHIBIT C Plan of New Easements



MAP SHOWING RELOCATED WATER LINE

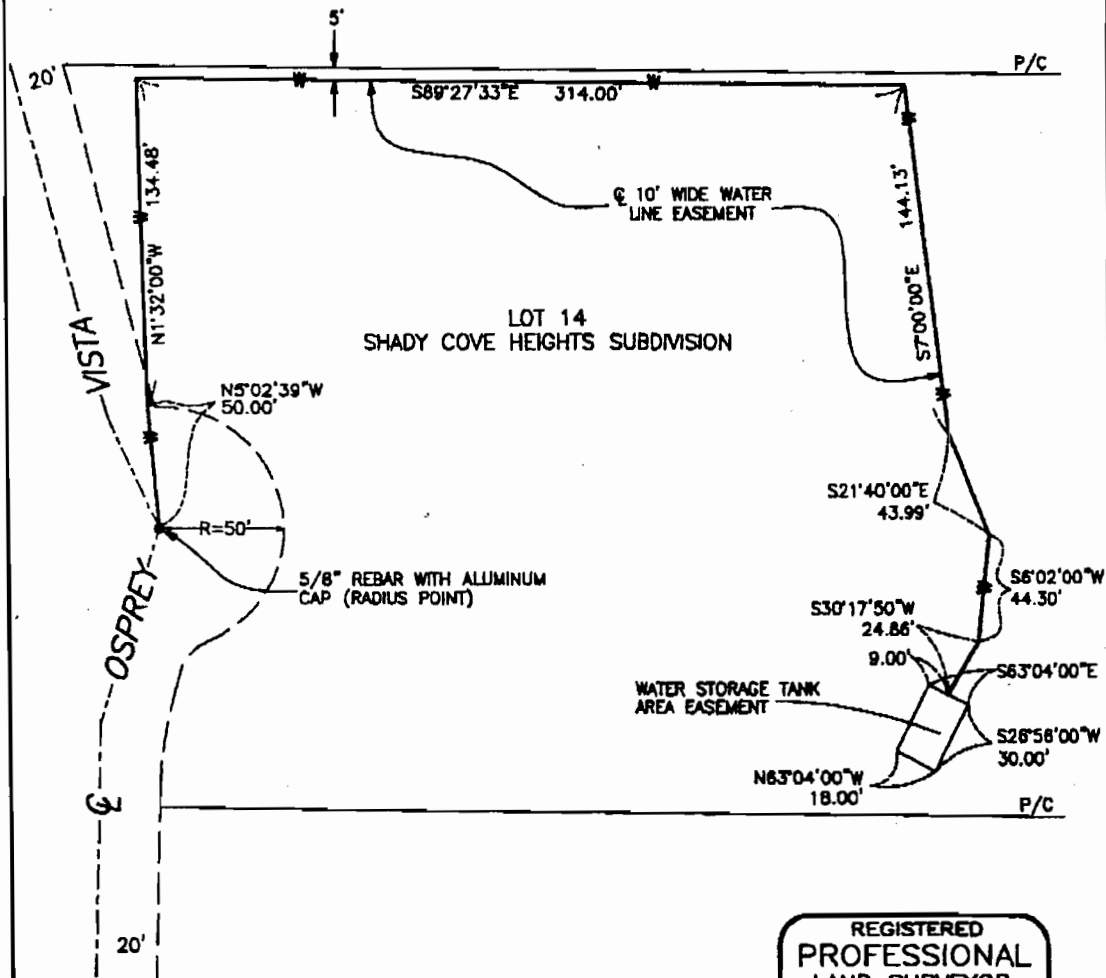
APPLICANT:
Mike Malepsy
P.O. Box 1004
Shady Cove, OR. 97539

PREPARED BY:
Kaiser Surveying
19754 Hwy. 62
Eagle Point, OR. 97524

LOCATION:
T.L. No. 341W 15DB - 114
City of Shady Cove
Jackson County, Oregon

DATE:
May 20, 2005

SCALE 1" = 60'



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Bary D Kaiser
OREGON
JULY 15, 2003
BARY D. KAISER
No. 52823

EXP. 8-30-05

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WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT E

Legal Description of the Lots

February 9, 2009

Anglers Cove Subdivision

341W15BD 300
 341W15BD 301
 341W15BD 302
 341W15BD 303
 341W15BD 304
 341W15BD 305
 341W15BD 306
 341W15BD 307
 341W15BD 308
 341W15BD 309
 341W15BD 310
 341W15BD 311
 341W15BD 312
 341W15BD 313
 341W15BD 314

Shady Cove Heights Subdivision

341W15DB 101
 341W15DB 102
 341W15DB 103
 341W15DB 104
 341W15DB 105
 341W15DB 106
 341W15DB 107
 341W15DB 108
 341W15DB 109
 341W15DB 111
 341W15DB 112
 341W15DB 113
 341W15DB 114
 341W15DB 118

Old Ferry Road/Quail Run Drive

341W15DB 200
 341W15DB 300
 341W15DB 400
 341W15DB 500
 341W15DB 600
 341W15DB 700
 341W15DB 701
 341W15DB 800
 341W15DB 804
 341W15DB 802
 341W15DB 803/901
 341W15DB 900/116
 341W15DB 1200
 341W15DB 1300

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 TULSA, OREGON

EXHIBIT #4

<u>Last Name</u>	<u>First Name(s)</u>	<u>Mailing Address</u>	<u>City</u>	<u>State</u>	<u>ZIP</u>	<u>Phone No.</u>
Atkeson	John & Lynn	PO BOX 1478	Shady Cove	OR	97539	541.878.3774
Biggs	Don & Lois	PO BOX 513	Shady Cove	OR	97539	541.878.1447
Bittler	Slade & Molly	PO BOX 393	Shady Cove	OR	97539	541.878.1438
Braun	Robert & Joann	PO BOX 1354	Shady Cove	OR	97539	541.878.2783
Bresette	Douglas & Jae-Lynn	150 Osprey Vista	Shady Cove	OR	97539	541.878.7398
Bresette	Douglas & Jae-Lynn	150 Osprey Vista	Shady Cove	OR	97539	541.821.0759
Campbell	Raymond & Carole	PO BOX 1062	Shady Cove	OR	97539	541.878.3399
Davis	Artice & Lalah	PO BOX 828	Shady Cove	OR	97539	541.878.5312
Duffield	James & Marsha	440 Old Ferry Road	Shady Cove	OR	97539	541.878.1479
Fitch	Anita & Robert	PO BOX 843	Shady Cove	OR	97539	541.621.3393
Gardner	Barbara	PO BOX 939	Shady Cove	OR	97539	541.538.9364
Goodwine	Darrell & Julie	500 Melrose Lane	Shady Cove	OR	97539	541.878.2204
Govenor	Athena	2981 Seckel St.	Medford	OR	97504	541.774.3604
Keith	Ruth & Phillip	PO BOX 204	Shady Cove	OR	97539	541.878.2252
Kessler	Edward & Connie	PO BOX 1577	Shady Cove	OR	97539	541.878.2498
Kolodny	Bob	14914 Rancho Real	Del Mar	CA	92014	858.435.0309
Landers	Jim & Gina	1075 Anglers Place	Shady Cove	OR	97539	541.890.2865
Lewis	Scott E.	PO BOX 52	Medford	OR	97501	541.608.8781
Litle	Kathryn & Gary	1001 Old Ferry Road	Shady Cove	OR	97539	541.878.2355
Locklin	Jerry & Cindy	470 Old Ferry Road	Shady Cove	OR	97539	541.878.8464
Ludwick	Alan & Lynn	577 Melrose Dr	Shady Cove	OR	97539	541.245.2568
Marshman	Dan & Shirley	9828 Tristan Drive	Downey	CA	90240	562.869.2969
Mayer	Ed & Nancy	PO BOX 160	Shady Cove	OR	97539	541.301.5274
Miller	Sterling & Shannon	15 Quail Run Drive	Shady Cove	OR	97539	971.223.4055
Mills	Nanette	242 Sungate Court	Vacaville	CA	95688	707.449.9229
Moynihan	Mike & Debbi	PO BOX 1362	Shady Cove	OR	97539	541.878.4432
Patterson	Richard	PO BOX 1238	Shady Cove	OR	97539	541.878.2693
Payzant	Kenneth & Joan	2512 122nd St NW	Gig Harbor	WA	98332	253.858.1196
Perkins	Dan & Deborah	115 Marjane Lane	Shady Cove	OR	97539	541.878.3830
Podesta	Paul & Rhonda	PO BOX 684	Grants Pass	OR	97528	541.471.6500
Rackleff	John L.	PO BOX 1356	Shady Cove	OR	97539	541.878.2773
Sieg	Dan & Pamela	PO BOX 511	Shady Cove	OR	97539	541.944.2252
Stafford	John & Nancy	24 Quail Run Drive	Shady Cove	OR	97539	541.878.3354
Steinbeck	Arnold & Marie	40 Quail Run Drive	Shady Cove	OR	97539	541.878.0985
Stewart	Steve	350 Old Ferry Road	Shady Cove	OR	97539	541.941.4827
Tate	Matthew	420 Old Ferry Road	Shady Cove	OR	97539	541.878.3827
Taylor	Wayne and Margaret	2418 Rogue Valley Manor Drive	Medford	OR	97504	541.857.6039
Underwood	Michael & Robin	PO BOX 261	Shady Cove	OR	97539	541.261.5505
Vaughan	Joseph & Teresa	PO BOX 1615	Shady Cove	OR	97539	541.878.7336
Viles	Cari	PO BOX 635	Ashland	OR	97520	541.261.2829
Walker	Ronald	PO BOX 8100	Brookings	OR	97415	541.469.3638
Ward	Roy & Kathleen	424 Old Ferry Road	Shady Cove	OR	97539	541.878.4685
Wheeler	Robert & Linda	430 Old Ferry Road	Shady Cove	OR	97539	541.878.2411

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WATER RESOURCES DEPT
SALEM, OREGON

WATER STORAGE AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA

AND

THE CITY OF SHADY COVE, OREGON

FOR

WATER STORAGE SPACE
IN LOST CREEK LAKE PROJECT, OREGON

THIS AGREEMENT, entered into this 15th day of JULY 2002, by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government") represented by the District Engineer executing this agreement, and City of Shady Cove, a municipal corporation of the State of Oregon (hereinafter called the "City"):

WITNESSETH THAT:

WHEREAS, The Flood Control Act of 1962. (Public Law 87-874) authorized the construction, operation, and maintenance of the Lost Creek Lake Project on the Rogue River, Oregon (hereinafter called the "Project"); and

WHEREAS, the City desires to enter into an agreement with the Government for the use of storage included in the Project for municipal and industrial water supply, and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b-f); and

WHEREAS, the City, as shown in Exhibit "A" attached to and made part of this agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this agreement, including those required by Section 221 of the Flood Control Act of 1970, (42 U.S.C. 1962d-5d) as amended;

NOW, THEREFORE, the Government and the City agree as follows:

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ARTICLE 1 - Water Storage Space.

a. Project Construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, has designed and constructed the Project so as to include therein space for the storage of water by the City.

b. Rights of City.

(1). The City shall have the right to utilize an undivided 0.0039 percent (estimated to contain 12 acre-feet after adjustment for sediment deposits) of the usable storage space in the Project between elevations 1,872 feet and 1,751 feet, National Geodetic Vertical Datum (NGVD), which usable conservation storage space is estimated to contain 308,250 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for present demand or need for municipal and industrial water supply.

(2). The City shall have the right to withdraw water from the lake, or to order releases to be made by the Government through the outlet works in the Dam, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion or withdrawals, subject to the approval of the District Engineer as to design and location. The grant of an easement for right-of-way, across, in and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, without additional cost to the City, under the authority of and in accordance with the provisions of 10 U.S.C. 2669 and such other authorities as may be necessary. Subject to the conditions of such easement, the City shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges granted under this agreement.

c. Rights Reserved. The Government reserves the right to control and use all storage in the Project in accordance with authorized Project purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life and/or property, including the right not to make downstream releases during such periods of time as are deemed necessary, in its sole discretion, to inspect, maintain, or repair the Project.

d. Quality or Availability of Water. The City recognizes that this agreement provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor, or for the treatment of the water.

e. Sedimentation Surveys.

(1). Sedimentation surveys will be made by the District Engineer during the term of this agreement at intervals not to exceed fifteen (15) years unless otherwise agreed to in writing by both parties. When, in the opinion of the District Engineer, the findings of such survey indicate any Project purpose will be affected by unanticipated sedimentation distribution, there shall be an equitable redistribution of the sediment reserve storage space among the purposes served by the Project including municipal and industrial water supply. The total available remaining storage space in the Project will then be divided among the various Project features in the same ratio as was initially utilized. Adjusted pool elevations will be rounded to the nearest one-half foot. Such findings and the storage space allocated to municipal and industrial water supply shall be defined and described as an exhibit which will be made a part of this agreement and the reservoir regulation manual will be modified accordingly.

(2). The Government assumes no responsibility for deviations from estimated rates of sedimentation, or the distribution thereof. Such deviations may cause unequal distribution of sediment reserve storage greater than estimated, and/or encroachment of the total storage at the Project.

ARTICLE 2 - Regulation of and Right to Use of Water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the City. The City has the full responsibility to acquire in accordance with State laws and regulations, and, if necessary, to establish or defend, any and all water rights needed for utilization of the storage provided under this agreement. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the City except as such controversies may affect the operations of the Project by the Government.

ARTICLE 3 - Operation and Maintenance. The Government shall operate and maintain the Project and the City shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5. The City shall be responsible for operation and maintenance of all installations and facilities which it may construct for the diversion or withdrawal of water, and shall bear all costs of construction, operation and maintenance of such installations and facilities.

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WATER RESOURCES DEPT
SALEM, OREGON

ARTICLE 4 - Measurement of Withdrawals and Releases. The City agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the District Engineer for the measurement of water which is withdrawn from the Project by any means other than through the Project outlet works. The City shall furnish to the Government monthly statements of all such withdrawals. Prior to the construction of any facilities for withdrawal of water from the Project, the City will obtain the District Engineer's approval of the design, location and installation of the facilities including the meters or measuring devices. Such devices shall be available for inspection by Government representatives at all reasonable times. Releases from the water supply storage space through the Project outlet works shall be made in accordance with written schedules furnished by the City and approved by the District Engineer and shall be subject to Article 1c. The measure of all such releases shall be by means of a rating curve of the outlet works, or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5 - Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the City shall pay the following sums to the Government:

a. Project Investment Costs.

(1). The City shall repay to the Government in a lump sum payment, the amounts stated below which, as shown in Exhibit "B" attached to and made a part of this agreement, constitute the entire actual amount of the investment costs, including interest during construction, and interest accrued following the end of the 10-year interest free period, 25 June 1992, allocated to the water storage right acquired by the City under this agreement. The interest rate to be used for purposes of computing interest during construction will be the coupon rate as determined by the Secretary of the Treasury on the basis set forth in the Water Supply Act of 1958, Title III of PL 85-500. For the Project, construction of which was initiated in FY 1968 this interest rate is 3.253 percent. The City shall repay:

0.12 percent of the total Project joint-use construction costs allocated to water supply	\$7,272
Interest during construction	\$818
Interest accrued from the end of the 10-year interest free period, 25 Jun 92 to date of agreement approval, estimated at 01 Jun 02	<u>\$3,052</u>
Total amount of Project investment costs allocated to the City	\$11,142

(2). The lump sum payment shall be due and payable within thirty (30) days after the date the City is notified that this agreement is approved by the Secretary of the Army or his duly authorized representative.

b. Repair, Rehabilitation, and Replacement Costs. The City will be required to pay 0.7197 percent of the cost of joint-use repair, rehabilitation, and replacement of Project features. Payment of these costs shall be made either incrementally during construction or in lump sum (including interest during construction) upon completion of construction.

c. Annual Operation and Maintenance (O&M) Expense. The City will be required to pay 0.5975 percent of the annual experienced joint-use O&M expense of the Project. The first payment for O&M expense is due and payable in advance 30 days following the anniversary of the date the City is notified that this agreement is approved by the Secretary of the Army or his duly authorized representative and shall be based on O&M expense for the Project in the Government fiscal year most recently ended. Annual O&M payments thereafter will be due and payable 30 days after each anniversary of the date the City is notified that this agreement is approved by the Secretary of the Army or his duly authorized representative. The amount of each annual payment will be the actual experienced O&M expense (allocated joint-use) for the preceding fiscal year or an estimate thereof when actual expense information is not available.

d. Delinquent Payments. If the City shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used for overdue payments due under the provisions of Articles 5a, 5b, 5c and 5d above shall be that determined by the Department of Treasury's Treasury Fiscal Requirements Manual (1 TFRM 6-8000, "Cash Management") . The amount charged on payments overdue for a period of less than one year shall be figured on a

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monthly basis. For example, if the payment is made within the first month after being overdue after a 15-day grace period from the anniversary date of the date of notification, one month's interest shall be charged. Thereafter a month's interest will be charged for any portion of each succeeding month that the payment is delinquent. This provision shall not be construed as giving the City a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the City.

ARTICLE 6 - ADJUSTMENT TO PROJECT INVESTMENT COSTS. The project investment costs shown in this agreement and the exhibits are based on actual final construction costs of the project. Any further investment cost accruing to the User's water storage right shall be repaid under repair, rehabilitation and replacement costs if capitalized or under operation and maintenance expense if not capitalized.

ARTICLE 7 - Duration of Agreement. This agreement shall become effective when approved by the Secretary of the Army (or his duly authorized representative) and shall continue in full force and effect for the life of the Project.

ARTICLE 8 - Permanent Rights to Storage. Upon completion of payment(s) by the City, as provided in Article 5a herein, the City shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The City shall continue payment of annual operation and maintenance costs allocated to water supply.

b. The City shall bear the costs allocated to water supply of any necessary repair, rehabilitation, or replacement of Project features which may be required to continue satisfactory operation of the Project. Such costs will be established by the District Engineer and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5b for Repair, Rehabilitation, or Replacement Costs, and be made a part of this agreement.

c. Upon completion of payments by the City as provided in Article 5a, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance with the provisions of Article 1e. Such redetermination of reservoir storage capacity may be further adjusted from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the City under this agreement shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate agreement, or additional supplemental agreement providing for:

(1). Continued operation by the City of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2). Terms which will protect the public interest; and

(3). Effective absolvment of the Government by the City from all liability in connection with such continued operation.

ARTICLE 9 - Release of Claims. The City shall hold and save the Government, including its officers, agents and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the City or as a result of the construction, operation, or maintenance of the water supply facilities and appurtenances thereto owned and operated by the City except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE 10 - Transfers and Assignments.

a. The City shall not transfer or assign this agreement nor any rights acquired thereunder, nor suballot said water supply storage space or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this agreement, without the approval of the Secretary of the Army, or his duly authorized representative provided that, unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the City and furnished to any third party or parties, nor any method of allocation thereof.

b. Regarding approval of assignments, references to restriction of assignments shall not apply to any transfer or assignment to the Rural Economic Community Development (RECD, formerly Farmers Home Administration) or its successor agency, or nominee, given in connection with the pledging of this water storage agreement as security for any loans or arising out of the foreclosure or liquidation of said loans. The City will notify the Government in writing 15 days prior to applying for a RECD loan. A copy of the final loan instrument will be furnished to the Government for their record.

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SALEM, OREGON

ARTICLE 11 - Officials Not to Benefit. No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

ARTICLE 12 - Covenant Against Contingent Fees. The City warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the City for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this agreement without liability or in its discretion to add to the agreement price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 13 - Environmental Quality. During any construction, operation, and maintenance by City of any facilities, specific actions will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to:

- a. Reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases, and of smoke from temporary heaters;
- b. Reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion;
- c. Minimization of noise levels;
- d. On-site and off-site disposal of waste and spoil; and,
- e. Prevention of landscape defacement and damage.

ARTICLE 14 - Federal and State Laws.

a. Compliance. In acting under its rights and obligations hereunder, the City agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) Title 29, Code of Federal Regulations, Part 3; and Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646)

b. Civil Rights Act. The City furnishes, as part of this agreement, an assurance (Exhibit D) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C 2000d, et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

c. Regulatory Program. Any discharges of water or pollutants into a navigable stream or tributary thereof resulting from the City's facilities and operations undertaken under this agreement shall be performed only in accordance with applicable Federal, State, and local laws and regulations.

d. Lobbying Activities. The City furnishes, as part of this agreement, a certification (Exhibit E and if applicable, a Disclosure of Lobbying Activities) that it will comply with Title 31 U.S.C. Section 1352 of the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions (Public Law 101-121, October 23, 1989(and Federal Acquisitions Regulation 52.203-12 issued pursuant thereto.

ARTICLE 15 - Definitions.

a. Project investment costs. The initial cost of the Project, including: land acquisition; construction; interest during construction on the value of land, labor, and materials used for planning and construction of the Project.

b. Interest during construction. An amount of interest which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the project is first made available for water storage.

c. Specific costs. The costs of Project features normally serving only one particular Project purpose.

d. Joint-use costs. The costs of features used for any two or more Project purposes.

e. Plant-in-service date. This date is the date that the Project is physically available to initiate deliberate impoundment for water supply purposes.

f. Annual operation and maintenance (O&M) expense. Annual expenses funded under the O&M, General Account. These expenses include the daily Project O&M costs as well as those O&M costs which are not capitalized.

g. Repair, rehabilitation, and replacement Cost. Costs funded under the Operation and Maintenance, General, or Construction, General accounts but not associated with initial

Project investment or construction costs. Such expenditures are for costly, infrequent work that is non-recurring in nature and are intended to ensure continued satisfactory operation of the Project

h. Fiscal Year. Refers to the Government's fiscal year. This year begins on 1 October and ends on 30 September. The September calendar year corresponds to the fiscal year.


i. Life of the Project. This is the physical life of the Project.

j. District Engineer. Refers to the District Engineer of the Portland District of the United States Army Corps of Engineers, or his/her successor or designee.

ARTICLE 16 - Approval of Agreement. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.

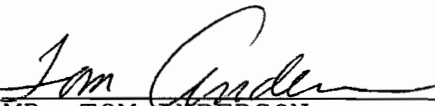
IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

APPROVED: THE UNITED STATES OF AMERICA

By 
RANDALL J. BUTLER
Colonel, Corps of Engineers
District Engineer

DATE: 15 Jul 02

CITY OF SHADY COVE, OREGON

By 
MR. TOM ANDERSON
Mayor, City of SHADY COVE

DATE: 6/12/02

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EXHIBIT A

CERTIFICATION

I Larry Kerr, Attorney for the City of Shady Cove, hereby certify that the foregoing agreement executed by Tom Anderson, Mayor of the City of Shady Cove is within the scope of his authority to act upon behalf of the City of Shady Cove, and that in my capacity as Attorney for the City, I have considered the legal effect of Section 221 of the 1970 Flood Control Act (Public Law 91-611) and find that the City is legally and financially capable of entering into the obligations contained in the foregoing agreement and that, upon acceptance, it will be legally enforceable.

Given under my hand, this 12 day of June 2002.



Larry Kerr
Attorney for the City of Shady Cove

EXHIBIT B
LOST CREEK LAKE, OREGON

I - LAKE STORAGE

Feature	Elevation (ft,m.s.l)	Usable Storage (ac.ft.)	Percent of	
			Conservation Storage	Water Supply Storage
Seasonal Flood Control	1872-1812	180,000		
Seasonal Conservation	1812-1752	128,250 ¹		
Total Usable Storage	1872-1751	308,250 ¹	100.000	
Fishery Release		125,000	40.552	
Irrigation		35,000	11.354	
Water Supply		10,000	3.244	100.000
(City of Phoenix, 1982)		(400)	(0.130)	(4.000)
(City of Phoenix, 1991)		(600)	(0.194)	(6.000)
(City of Jacksonville, 1996)		(400)	(0.130)	(4.000)
(City of Shady Cove, 1998)		(3)	(0.00097)	(0.030)
(City of Ashland, 2001)		(1001)	(0.3247)	(10.010)
(City of Talent, 2002)		(1292)	(0.4191)	(12.920)
(City of Shady Cove, 2002)		(12)	(0.0039)	(0.120)
Joint Use ²		138,250 ¹	44.850	
Inactive	1751-1640	122,250 ¹		
Dead	below 1640	21,000		
Sedimentation (100 year)		13,500 ¹		
TOTAL PROJECT STORAGE		465,000		

¹ Storage remaining after 100 years of sedimentation from the date the project is operational. It is estimated that 135 acre-feet of sedimentation will occur annually. Half (67.5 acre-feet) in the area inactive storage space annually.

² Joint-use storage to be used primarily for fish enhancement, in-reservoir recreation, municipal and irrigation purposes until required for carry-over storage draft in a low runoff water year to meet authorized project purposes.

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EXHIBIT B (cont'd)

II - ALLOCATION OF CONSTRUCTION COST

<u>Feature</u>	<u>Cost (\$)</u>	<u>Percent of Project Joint- Use Construction Cost</u>
Flood Control	\$ 44,407,000	52.673
Specific	(26,000)	
Joint-Use	(44,381,000)	
Recreation	\$ 11,420,000	1.517
Specific	(10,142,000)	
Joint-Use	(1,278,000)	
Water Supply	\$ 6,060,000	7.192
Specific	(---)	
Joint-Use	(6,060,000)	
Irrigation	\$ 7,007,000	8.316
Specific	(---)	
Joint-Use	(7,007,000)	
Power	\$ 37,925,000	22.158
Specific	(19,255,000)	
Joint-Use	(18,670,000)	
Fish & Wildlife	\$ 10,824,000	8.144
Specific	(3,962,000)	
Joint-Use	(6,862,000)	
Total	<u>\$117,643,000</u>	100.00
Specific	(33,385,000)	
Joint-Use	(84,258,000)	

EXHIBIT B (cont'd)

III - INVESTMENT COSTS TO BE REPAYED BY THE CITY FOR
WATER SUPPLY STORAGE

Cost of 12 acre-feet of water supply storage (0.120% x \$6,060,000)	= \$7,272
Cost of specific facilities	= <u> ---</u>
Subtotal	= \$7,272
Interest during construction ¹	= <u> \$818</u>
Subtotal	\$8,090
Interest accrued from the end of the 10-year interest free period, 25 Jun 92 to date of agreement approval, estimated at 01 Feb 02	<u> \$3,052</u>
Total amount of Project investment costs allocated to the City	\$11,142

Notes:

¹ Based on actual construction expenditures by quarter and an interest rate of 3.253%.

EXHIBIT B (cont'd)

IV - TOTAL ANNUAL COST TO THE CITY FOR PRESENT USE OF WATER
SUPPLY STORAGE

Interest and amortization

Non-applicable for this agreement due to lump sum payment

Operation and Maintenance¹

Joint-use actual for FY01
0.120% X 05.97%² X \$2,630,081 = \$188

Major Replacement³

Joint-use actual for FY01
0.120% X 7.19%⁴ X \$118,567 = \$10

TOTAL ESTIMATED ANNUAL COST **\$198**

Notes:

¹ Payment due and payable on the date specified in Article 5c.

² Percent of Project joint-use operation and maintenance cost allocated to water supply.

³ Major replacement costs are payable only when incurred as specified in Article 5b. It is suggested that the amount shown be placed in a reserve or sinking fund for future contingency.

⁴ Percent of Project joint-use major replacement cost allocated to water supply.

⁵ Major replacement cost in the year incurred.

EXHIBIT C
 AMORTIZATION SCHEDULE
 PRESENT DEMAND

TOTAL COSTS		\$11,142.00			
NUMBER OF PAYMENTS		1			
INTEREST RATE, PERCENT ¹		3.253%			
ANNUAL PAYMENT NUMBER	YEAR	AMOUNT OF PAYMENT	INTEREST	ALLOCATED COST	BALANCE ALLOCATED COST
1	1982				
2	1983				
3	1984				
4	1985				
5	1986				
6	1987				
7	1988				
8	1989				
9	1990				
10	1991				
11	1992				
12	1993				
13	1994				
14	1995				
15	1996				
16	1997				
17	1998				
18	1999				
19	2000				
20	2001				
21	2002	\$11,142.00	\$0.00	\$11,142.00	\$0.00
22	2003				
23	2004				
24	2005				
25	2006				
26	2007				
27	2008				
28	2009				
29	2010				
30	2011				

Note:

¹ Term of financing is 30 years from the date of the first agreement for first use of municipal and industrial water supply storage or as a lump sum payment. The first agreement was with Phoenix and is dated 25 June 1982.

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Exhibit D

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF
DEFENSE DIRECTIVE UNDER TITLE VI OF THE
CIVIL RIGHTS ACT OF 1964

City of Shady Cove, Oregon (hereinafter called " Applicant-Recipient")

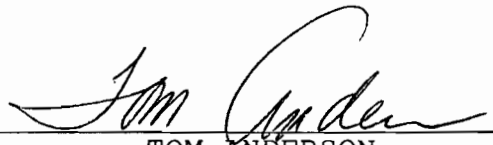
HEREBY AGREES THAT it will comply with title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300, issued as Department of the Defense Directive 5500.11, 28 December 1964) issued pursuant to that title, to the end that, in accordance with title VI of that Act and the Directive, no person in the United States shall, on the ground of race, color, sex, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from Department of the Army and

HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by this Department of the Army assurance shall obligate the Applicant-Recipient, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, if any personal property is so provided, this assurance shall obligate the Applicant-Recipient for the period during which it has ownership or possession of the property. In all other cases, this assurance shall obligate the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by Department of the Army.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Applicant-Recipient by the Department, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will

be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Applicant-Recipient.

Dated 6-12-02

BY 
TOM ANDERSON
Mayor,
City of Shady Cove

Address:
22451 Highway 62
Shady Cove, OR 97539

EXHIBIT E

CERTIFICATION REGARDING LOBBYING

Water Supply Storage Agreement
LOST CREEK LAKE PROJECT, OREGON

1. The undersigned certifies, to the best of their knowledge and belief, that:

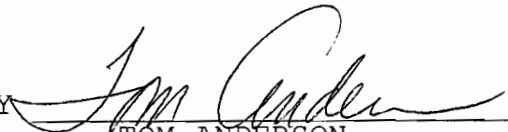
a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the water supply agreement for the Lost Creek Lake Project, Oregon, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. This form is available to users by requesting it telephonically at (202) 761-0116, or by writing to HQUSACE (CECW-A), 20 Massachusetts Avenue, NW, Washington, D.C., 20314-1000.

c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CITY OF SHADY COVE, OR

BY 
TOM ANDERSON
Mayor,
City of Shady Cove

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S-87408

Jackson County Official Records 2005-051459
R-DEC 08/24/2005 03:50:21 PM
CMT=F STR=10 ALONZOKRM
\$295.00 \$6.00 \$11.00 Total:\$311.00



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

Recording Requested By and
When Recorded Mail To:

Angler's Cove/Shady Cove Heights Water Company,
an Oregon non-profit mutual benefit corporation
c/o Windermere Trails End
Attn.: Mike Malepsy
P.O. Box 1004
Shady Cove, OR 97539

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Water Supply Declaration, Agreement & Easement

This Water Supply Declaration, Agreement and Easement ("Declaration") is made effective as of the earlier of: (i) MAY 24, 2005; or (ii) the date on which the Corporation referenced below first began supplying water to the Lots referenced below, by and between Angler's Cove/Shady Cove Heights Water Company, an Oregon non-profit mutual benefit corporation ("**Corporation**"), Angler's Cove, LLC, an Oregon limited liability company ("**Angler's Cove LLC**"), and those persons listed on the attached "**Exhibit A**," being the Lot Owners (as that term is defined in Section 3, below) subject to this Declaration.

Recitals

A. Angler's Cove LLC was the original developer and owner of a fifteen (15) lot subdivision ("**Angler's Cove**") located on Old Ferry Road in the City of Shady Cove, Jackson County, Oregon. The map and plat for Angler's Cove is recorded in Volume 24, at page 38 of the Records of Town Plats of Jackson County, Oregon.

B. Stephen C. Homan and Michael T. Malepsy were the original developers and owners of a fourteen (14) lot subdivision ("**Shady Cove Heights**") located on Old Ferry Road in the City of Shady Cove, Jackson County, Oregon. The map and plat for Shady Cove Heights is recorded in Volume 22, at page 6 of the Records of Town Plats of Jackson County, Oregon. Stephen C. Homan and Carol L. Homan, by their Bargain and Sale Deed dated March 29, 2000 and recorded in the Jackson County Official Records on March 31, 2000 as document number 00-12146, conveyed the remaining unsold lots in Shady Cove Heights to Michael T. Malepsy and Bonnie L. Malepsy. Therefore, Stephen C. Homan no longer has an ownership interest or any other beneficial interest in Shady Cove Heights.

C. At the time of the execution of this Declaration, there is no municipal water system serving either Angler's Cove or Shady Cove Heights.

D. To facilitate the supply of domestic water to Angler's Cove, Angler's Cove LLC recorded a Water Use Declaration, Agreement & Easement ("**Angler's Cove Water Use**")

Agreement"), dated September 22, 1998, in the Jackson County Official Records as document number 98-45197, the provisions of which are incorporated herein by reference.

E. To facilitate the supply of domestic water to Shady Cove Heights, Stephen C. Homan and Michael T. Malepsy recorded a Water Use Declaration, Agreement and Easement ("**Shady Cove Water Use Agreement**"), dated February 19, 1997, in the Jackson County Official Records as document number 97-05396, the provisions of which are incorporated herein by reference. The Shady Cove Water Use Agreement was amended by an Amendment to Water Use Declaration, Agreement and Easement ("**Shady Cove Amendment**"), dated May 21, 1997 and recorded in the Jackson County Official Records as document number 97-19007, the provisions of which are incorporated herein by reference. By virtue of the Shady Cove Amendment, additional parcels of real property may be served by the water distribution system established by the Shady Cove Water Use Agreement. These additional parcels are described in various exhibits attached to the Shady Cove Amendment. For the limited purposes of this Declaration, the term "**Shady Cove Heights**" shall include these additional parcels of real property as described in the Shady Cove Amendment.

F. On or about April 14, 2002, Angler's Cove LLC entered into an Agreement to Supply Water ("**Water Supply Agreement**") with the City of Shady Cove, Oregon, in which Angler's Cove LLC obtained the right to remove water from the Rogue River and supply this water for domestic use in Angler's Cove. The Water Supply Agreement gave Angler's Cove LLC the right, but not the obligation, to provide water from the Rogue River for Shady Cove Heights as well. In the Water Supply Agreement, Angler's Cove LLC, or its assignee if it desires to have the City of Shady Cove supply water to Angler's Cove or its approved assignee(s), has the obligation to construct and maintain a water delivery system to transport the water from the Rogue River to its service area. The Water Supply Agreement also places on Angler's Cove LLC, or its assignee, the responsibility for treating this water to make it potable.

G. In this Declaration, the term "**Water Treatment and Distribution System**" shall collectively mean: (i) the existing water distribution system for domestic, potable water currently in existence in Shady Cove Heights and Angler's Cove and maintained pursuant to the Angler's Cove Water Use Agreement, the Shady Cove Water Use Agreement, and the Shady Cove Amendment; (ii) the water distribution and treatment system required to be constructed to extract water from the Rogue River, transport it to the Lots (as that term is defined below), and treat that water to make it potable; and (iii) any improvements, repairs, extensions, upgrades or modifications made to the existing domestic water distribution systems currently in place in Angler's Cove and Shady Cove Heights. The Water Treatment and Distribution System shall include, but is not limited to the following components: all wells, pumps, tanks, underground pipes, water meters, electrical hookups, pressure tanks, storage tanks and pump houses which are now or may in the future be used to supply water to the Lots pursuant to the Water Supply Agreement and this Declaration.

H. Simultaneously with the execution of this Declaration and reimbursement as provided for in Section 4.1, below, Angler's Cove LLC will conditionally assign its rights under the Water Supply Agreement to the Corporation.

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I. The parties desire to reaffirm certain existing easements, create new easements to facilitate the supply of water to the Lots, and provide for certain terms and conditions upon which the Lot Owners will share in both the benefits conferred by, and the costs required to construct, maintain and operate, the Water Treatment and Distribution System as provided in this Agreement.

Now, therefore, in consideration of the foregoing and the mutual covenants contained herein, and intending to be legally bound hereby, the parties agree and declare as follows:

1. **Reaffirmation and Assignment of Easements.** All of the easements granted in the Angler's Cove Water Use Agreement, the Shady Cove Water Use Agreement and the Shady Cove Amendment, specifically excepting that certain easement pertaining to and concerning Lot 14 of Shady Cove Heights, which easement is hereby deemed terminated (collectively, the "Existing Easements"), are reaffirmed by the parties to this Declaration whose real property is burdened by them. It is specifically noted that in addition to acting to terminate any easements granted in the Angler's Cove Water Use Agreement, the Shady Cove Water Use Agreement or the Shady Cove Amendment over, on or through Lot 14 of Shady Cove Heights, this Declaration shall further act to terminate those agreements to the extent they at all apply to, impact or otherwise affect Lot 14 of Shady Cove Heights. The actual location of the Existing Easements is shown on a plan attached as "**Exhibit B,**" the terms of which are incorporated herein by this reference. The parties further agree that by this Declaration the Existing Easements are modified to provide the benefit and use of the Existing Easements to the Corporation and its employees, as well as its licensed and bonded agents, servants and contractors, as is reasonably necessary for the purpose of constructing, maintaining and operating the Water Treatment and Distribution System for the benefit of the Lot Owners. Accordingly, all rights for access, maintenance and operation granted to the owners of lots in Angler's Cove and Shady Cove Heights in the Existing Easements are extended to, granted and assigned to the Corporation. The parties acknowledge and agree that the Existing Easements do not exist for any other reason, and do not grant general access rights or rights of passage over the easement areas to the Corporation or any other party for purposes other than stated in the Existing Easements or this Declaration. In exercising the right to enter onto a Lot Owner's property to access the Existing Easements, the Corporation and its agents, servants and employees shall reasonably attempt to minimize any unnecessary interference with the Lot Owner's reasonable quiet enjoyment of the Lot Owner's property. Prior to entering onto a Lot Owner's property for the purposes set forth in this Section 1, the Corporation shall give said Lot Owner no less than twenty-four (24) hours notice of its intent to come onto the property, unless, in the Corporation's reasonable business judgment, an emergency situation which requires the Corporation's prompt and/or immediate attention exists, in which case the Corporation shall not be required to provide any notice prior to entering onto the Lot Owner's property.

While no Lot Owner shall be responsible for ensuring access to the Existing Easements, the parties hereto agree that no Lot Owner shall do anything which unreasonably interferes with the Corporation's ability to access and/or use the Existing Easements, as set forth in this Section 1.

The Corporation agrees that as long as it uses the Existing Easements, or claims rights thereto, the Corporation shall carry comprehensive liability insurance in an amount

deemed reasonable by the Corporation to provide liability coverage for the Corporation and those using the Existing Easements under the direction of Corporation.

2. Grant of New Easements. In addition to the easements granted to the Corporation in Section 1, above, the Owners of those Lots detailed below in this Section 2, hereby grant to the Corporation a nonexclusive, perpetual easement (subject to termination as provided for in this Declaration) over and across the Lots described below in this Section 2 and for the purposes stated in subsections A through E, below. In addition to the specific statement of purpose contained in each of the following subsections, the easements granted in this Section 2 shall be for the general purpose of approving, designing, constructing, maintaining, repairing and operating the Water Treatment and Distribution System. As part of the easements granted in this Section 2, the Corporation and its employees, as well as its licensed and bonded agents, servants and contractors, shall have the right to enter onto the Lots enumerated in the following subsections as is reasonably necessary for the purpose of approval, designing, constructing, maintaining and repairing the Water Treatment and Distribution System and for delivering water through the Water Treatment and Distribution System to the Lots. In exercising the right to enter onto a Lot Owner's property to access the easements granted in this Section 2, the Corporation and its agents, servants and employees shall reasonably attempt to minimize any unnecessary interference with the Lot Owner's reasonable quiet enjoyment of the Lot Owner's property. Prior to entering onto a Lot Owner's property for the purposes set forth in this Section 2, the Corporation shall give said Lot Owner no less than twenty-four (24) hours notice of its intent to come onto the property, unless, in the Corporation's reasonable business judgment, an emergency situation which requires the Corporation's prompt and/or immediate attention exists, in which case the Corporation shall not be required to provide any notice prior to entering onto the Lot Owner's property.

The Corporation agrees that as long as it uses the easements referenced in this Section 2 or claims rights thereto, the Corporation shall carry comprehensive liability insurance in an amount deemed reasonable by the Corporation to provide liability coverage for the Corporation and those using the easements referenced in this Section 2 under the direction of the Corporation. All of the easements set forth below are generally depicted on a plan attached hereto as "Exhibit C."

- A. The owner of Lot 5 of Angler's Cove grants an easement to the Corporation as set forth above for the purpose of a domestic water line benefiting the Lot Owners and the Corporation.
- B. The owner of Lot 6 of Angler's Cove grants an easement to the Corporation as set forth above for the purpose of a domestic water line benefiting the Lot Owners and the Corporation.
- C. The owner of Lot 7 of Angler's Cove grants an easement to the Corporation as set forth above for the purpose of a domestic water line benefiting the Lot Owners and the Corporation.

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- D. The owner of Lot 8 of Angler's Cove grants an easement to the Corporation as set forth above for the purpose of a domestic water line benefiting the Lot Owners and the Corporation.
- E. The owner of Lot 15 of Angler's Cove grants an easement to the Corporation as set forth above for the purpose of a domestic water line benefiting the Lot Owners and the Corporation.

WATER RESOURCES DEPT
SALEM, OREGON

2.1. In addition to the above, the Owners of Lot 14 of Shady Cove Heights grant an easement to the Corporation for the sole purpose of supplying water to the Lot Owners of Shady Cove Heights. The easement granted in this Section 2.1 is depicted on a plan attached hereto as "**Exhibit D.**" Said easement shall not be assignable by the Corporation without the prior written consent of the Owner of said Lot 14, which consent shall be given or withheld at the sole discretion of the Owner of said Lot 14. The easement over Lot 14 of Shady Cove Heights granted in this Section 2.1 shall be used by the Corporation only for the repair and maintenance of the tanks, pipes and other parts of the Water Distribution System currently existing on/under said Lot 14. To the extent any replacement of said tanks, pipes or parts becomes necessary at any time during the existence of the easement granted in this Section 2.1, said tanks, pipes or parts shall only be replaced with similarly sized tanks, pipes or parts unless the Owner of Lot 14 of Shady Cove Heights specifically agrees, in his sole discretion, to the contrary. For as long as the easement granted in this Section 2.1 shall be in existence, the Owner of said Lot 14 of Shady Cove Heights shall receive 10,000 gallons of water per billable month free of charge; provided, however, fees for all water usage attributable to Lot 14 over and above 10,000 gallons of water per billable month shall be charged to the Owners of Lot 14 at the Corporation's standard rates.

2.2. While no Lot Owner referenced in either Section 2 or 2.1, above, shall be responsible for ensuring access to the easements granted in those Sections, the parties hereto agree that no Lot Owner shall do anything which unreasonably interferes with the Corporation's ability to access and/or use said easements.

3. **Grant of General Easement.** In addition to the other easements granted to the Corporation in this Declaration, the Corporation, through its authorized agents, servants, and/or employees, is hereby granted an easement over and across the real property described below, which is collectively referred to in this Declaration as the "**Lots,**" for the purpose of: (i) reading the water meters or other measuring devices which are now located on the Lots or which may be located from time to time on the Lots in the future; and (ii) for such other reasonable purpose as may be required to construct, maintain, repair, replace and operate the Water Treatment and Distribution System and/or otherwise carry out the purposes of this Declaration. The real property which is included in the definition of "**Lots**" in this Declaration is more fully described in "**Exhibit E.**" The record owner or owners of each Lot, and their successors-in-interest, which shall be any subsequent record owner of any Lot, are referred to in this Declaration as "**Lot Owners.**"

4. **Assessments.** All Lot Owners agree to be bound by this Declaration, and the Articles of Incorporation ("**Articles**") and Bylaws of the Corporation ("**Bylaws**"). As set forth in the Bylaws, each Lot Owner shall be a member ("**Member**") of the Association. Each Lot

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Owner shall be liable for and pay to the Corporation, as billed, certain assessments for costs associated with the design, construction, maintenance and continuing operation of the Water Treatment and Distribution System, including, but not limited to, those costs detailed in this Section 4.

4.1. **Initial Assessment.** Prior to the formation of the Corporation, Michael T. Malepsy and/or related entities, paid for the costs of approval, design, construction and initial operation of the Water Treatment and Distribution System. A description of all such costs incurred by Michael T. Malepsy and/or related entities to approve, design, construct and initially operate the Water Treatment and Distribution System (collectively, the "**Design and Construction Expenses**") is attached hereto as "**Exhibit 'F.'**" As soon as reasonably practicable after the execution of this Declaration, the Corporation shall reimburse Michael T. Malepsy and/or related entities for the Design and Construction Expenses in the amount set forth in "**Exhibit 'F.'**" The Board of Directors of the Corporation shall then determine the share of the Design and Construction Expenses to be paid by each Lot Owner. This share of Design and Construction Expenses shall be assessed by the Corporation as the "**Initial Assessment**" and shall be billed and paid as set forth in this Declaration and the Bylaws. Upon execution of this Declaration, Michael T. Malepsy and/or related parties shall execute and deliver to the Corporation a bill of sale for the Water Treatment and Distribution System.

4.2. **Annual Assessments.** On or before December 31 of each year, the Corporation shall prepare a budget in which it estimates the costs of operating the Corporation for the next calendar year ("**Annual Operating Expenses**"). Annual Operating Expenses shall include all costs relating to the maintenance, repair and operation of the Water Treatment and Distribution System and may include reasonable capital reserves and contingency funds for maintenance, repair and replacement. Annual Operating Expenses for each budget may also include an estimate for administrative and management fees, including the fees of accountants and attorneys retained by the Corporation. As set forth in the Bylaws, the annual budget must be approved by a simple majority of the Members present at a general meeting of the Corporation called for that purpose.

The annual budget of the Corporation shall also contain a projected annual assessment ("**Annual Assessment**") to be levied against each Lot. Each Lot's Annual Assessment shall be the estimated share required to be paid by each Lot Owner to meet the Annual Operating Expenses set forth in the budget of the Corporation. The determination of the Annual Assessment charged to each Lot shall be in the sole and absolute discretion of the Corporation, acting through its Board of Directors ("**Board**"), and shall be calculated on a Lot by Lot basis to account for Annual Operating Expenses specifically attributable to each Lot. In considering the Annual Operating Costs, and the Annual Assessment of each Lot, the Board shall determine, among other things, the costs related to the maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water to both Angler's Cove and Shady Cove Heights, as well as those costs related to the maintenance, repair and operation of those portions of the Water Treatment Distribution System which are used to distribute, treat or transport water exclusively to either Angler's Cove or Shady Cove Heights. Costs related to maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water to both Angler's Cove and Shady Cove Heights shall be apportioned pro-rata among all Lot Owners.

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Costs related to maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water exclusively to Angler's Cove shall be apportioned pro-rata among all Lot Owners in Angler's Cove. Costs related to maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water exclusively to Shady Cove Heights shall be apportioned pro-rata among all Lot Owners in Shady Cove Heights. The Annual Assessment shall be billed to the Lot Owners on a periodic basis as set forth in Section 4.3, below.

4.3. Notice to Lot Owners; Billing. The Corporation shall cause the annual budget to be sent to each Lot Owner along with notice of the Annual Assessment as established by the Corporation for that calendar year. The Corporation shall bill each Lot Owner on a periodic basis, but not more often than monthly, for the Annual Assessment attributable to that Lot, adjusted as required for the periodic billing. For example, if the Corporation determines that the Annual Assessment shall be billed monthly, each Lot Owner shall be billed one-twelfth (1/12) of the Annual Assessment in each month of that calendar year. Invoices for the Annual Assessment and all other Assessments shall be due and payable upon receipt and shall be delinquent if not paid within fifteen (15) days of the date of the invoice. Any delinquent invoice shall bear interest at the higher of the rate of: (i) nine percent (9%) per annum; or (ii) two percent (2%) above the prime rate being charged by Wells Fargo Bank or its successor bank, until paid in full. The interest rate authorized under this Section 4.3 for delinquent invoices is intended to comply with Oregon's usury laws as such laws may exist from time to time. Therefore, if it is determined that the interest exceeds the maximum interest rate permitted by law, then the interest rate charged on delinquent invoices shall be reduced to the maximum rate permitted by Oregon law.

4.4. Supplemental Assessments. In addition to the Annual Assessment, the Corporation may impose a Supplemental Assessment on each Lot Owner ("**Supplemental Assessment**"). Supplemental Assessments may be required, and are authorized, when the Corporation requires additional funds to pay for extraordinary expenses incurred by the Corporation in connection with the construction, maintenance, repair and operation of the Water Treatment and Distribution System and/or if the Corporation determines that it needs to have additional reserves set aside. As with the Annual Assessments discussed in Section 4.2, above, the determination of a Supplemental Assessment shall be in the sole and absolute discretion of the Corporation, acting through the Board. With regard to extraordinary expenses incurred by the Corporation in connection with the maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water to both Angler's Cove and Shady Cove Heights, said expenses shall be apportioned pro-rata among all Lot Owners. Extraordinary expenses incurred by the Corporation in connection with the maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water exclusively to Angler's Cove shall be apportioned pro-rata among all Lot Owners in Angler's Cove. Extraordinary expenses incurred by the Corporation in connection with the maintenance, repair and operation of those portions of the Water Treatment and Distribution System which are used to distribute, treat or transport water exclusively to Shady Cove Heights shall be apportioned pro-rata among all Lot Owners in Shady Cove Heights.

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In the event that the Board imposes a Supplemental Assessment during any calendar year, it shall notify each Lot Owner of the Supplemental Assessment and provide a brief explanation of the circumstances giving rise to the imposition of the Supplemental Assessment. Supplemental Assessments must be approved by a majority vote of the Members at a special meeting called for that purpose pursuant to Section 2.4 of the Bylaws. Supplemental Assessments are unique to a single need and confined to one fiscal year. If a series of Supplemental Assessments are needed in any one fiscal year, each such assessment shall be separately approved for that fiscal year by a majority vote of the Members.

4.5. Collection of the Initial Assessment, Annual Assessments and Supplemental Assessments. In the event the Initial Assessment, an Annual Assessment or a Supplemental Assessment (collectively, "Assessment" or "Assessments") becomes delinquent, the Corporation, in addition to interest, may recover its reasonable costs incurred in collecting the delinquent Assessment, including reasonable attorneys' fees and costs, as well as a late charge of ten percent (10%) of the delinquent Assessment, or Fifty Dollars (\$50.00), whichever is greater. The Assessments, together with any interest, late charges, expenses or attorneys' fees imposed pursuant to this Section 4 and/or the Bylaws, shall be a charge on the respective Lots and shall be a continuing lien upon the Lot against which each such Assessment is made. Such Assessments, charges and other costs shall also be the personal obligation of the person who was the Lot Owner at the time the Assessment or charge fell due. At any time after any Assessment, or other charge levied by the Corporation, becomes delinquent, the Corporation may file for recording in the Jackson County Official Records, a notice of delinquency as to such Lot, which notice shall state all amounts which have become delinquent with respect to the Lot and the costs and interest which have accrued thereon, as well as a legal description of the Lot, and the name of the Lot Owner or the reputed Lot Owner. Immediately upon recording, any notice of delinquency shall become a lien on the Lot, which lien shall also secure all future Assessments levied by the Corporation against that Lot.

5. Responsibilities of Corporation. The Corporation shall have full and complete management responsibility and control of the approval, design, construction, maintenance, repair and continuing operation the Water Treatment and Distribution System. All provisions in the Angler's Cove Water Use Agreement, the Shady Cove Water Use Agreement, and the Shady Cove Amendment concerning the obligation of and authority for maintenance, repair, control and operation of the Water Treatment and Distribution System, or any part thereof, are superseded by this Declaration.

6. Authority to Discontinue Water Supply to Lots. If any Lot Owner fails to pay in full an invoice for an Assessment or other charge within thirty (30) days of the date of the invoice, then the Corporation shall have the absolute right, but is not required, to terminate the supply of water through the Water Treatment and Distribution System to that Lot. The water supply and service to the delinquent Lot shall be reconnected at such time as its Lot Owner pays the delinquent invoice or invoices in full, plus all accrued interest and late charges, a reasonable fee for reconnecting water service, which fee shall be established from time to time by the Corporation, in its sole discretion, and all other reasonable costs and fees including legal fees incurred by the Corporation as a result of the Lot Owner's failure to pay an Assessment when due. As a further condition of reconnecting the water supply and service to the Lot, the Corporation may require from the Lot Owner a reasonable deposit as determined by the

Corporation, in its reasonable discretion, securing payment by the Lot Owner of future Assessments.

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7. **Termination of Easements.** The easements granted by this Declaration shall terminate at such time as the City of Shady Cove, or an independent water district or districts, has: (i) constructed a fully functional, operating public water distribution system then supplying treated and potable domestic water to all of the Lots, in an amount sufficient to meet the domestic water needs of those persons residing in homes constructed on the Lots, at standard residential rates, said rates being substantially identical to the rates charged by the City of Shady Cove and/or the independent water district(s), to their other residential customers, and (ii) the Corporation no longer uses the Water Distribution System for the purposes set forth in this Declaration. In the event the easements, or any portion of them, are terminated: (i) each Lot Owner shall be solely responsible and liable for removing the portion of the Water Treatment and Distribution System then existing on their respective Lots; (ii) all Lot Owners in Angler's Cove shall be collectively and equally liable and responsible for removing any equipment (including pumps, water treatment houses, tanks, etc.) which is used to transport, treat or otherwise provide water exclusively or specifically to Angler's Cove; (iii) all Lot Owners in Shady Cove Heights shall be collectively and equally liable and responsible for removing any equipment (including pumps, water treatment houses, tanks etc.) which is located on any Lot within Shady Cove Heights (including the tanks located on Lot 14) and/or used exclusively or specifically to transport, treat or otherwise provide water to the Lots in Shady Cove Heights; and (iv) all Lot Owners shall be collectively and equally liable for the removal of any remaining equipment (including pumps, water treatment houses, tanks, etc.) which is used to transport, treat or otherwise provide water to both Angler's Cove and Shady Cove Heights.

8. **Easements as Covenants; Declaration Binding on Subsequent Lot Owners.** The easements created by this Declaration are covenants running with the land and are binding upon the parties, their heirs, assigns and successors-in-interest. By accepting a deed to any of the Lots, the purchaser of any Lot shall become a Lot Owner and shall be deemed to have agreed to be bound by the provisions of this Declaration and the Angler's Cove Water Use Agreement, the Shady Cove Water Use Agreement, and the Shady Cove Amendment.

9. **Release by Lot Owners; Corporation Indemnity.** The Lot Owners acknowledge that while the Water Treatment and Distribution System has been inspected by and approved by the Oregon Department of Human Services, the Corporation makes no warranty or representation of any kind that: (i) the supply of water to the Lots by the Corporation through the Water Treatment and Distribution System will be continuing and uninterrupted; (ii) the water delivered to the Lots by the Water Treatment and Distribution System will be of sufficient volume to meet the needs of all or any of the Lot Owners; (iii) the water delivered to the Lots by the Water Treatment and Distribution System is potable and fit for human consumption; and/or (iv) that the City of Shady Cove may not terminate the Water Supply Agreement. The Lot Owners, for themselves and their heirs, executors, administrators, assigns, agents, predecessors, successors and any all persons or entities who may claim through them, do hereby release and discharge Angler's Cove LLC, Malepsy, Windermere Trails End Real Estate, the Corporation, their heirs, shareholders, officers, members, lenders, principals and their successors and assigns, from any and all actions, suits, liens, damages, claims or demands of whatever nature, known or unknown, suspected or unsuspected, arising out of, related to or in any way connected with: (i)

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the approval, design, construction, maintenance, repair and operation of the Water Treatment and Distribution System and the quantity and quality of water delivered through this system to the Lots; and/or (ii) the availability or lack of availability of water for domestic use on the Lots by the Lot Owners. In connection with the above, the Corporation agrees to indemnify Angler's Cove LLC, Malepsy, and Windermere Trails End Real Estate, and their heirs, shareholders, officers, members, lenders, principals and their successors and assigns from any claims brought by any Lot Owner from and after date the Corporation assumes possession and control of the Water Distribution System as a result of the approval design, construction, maintenance, repair and/or operation of the Water Treatment and Distribution System.

10. Limits of Liability. The Corporation (and its successors-in-interest) shall indemnify, defend and hold all Lot Owners (and their successors-in-interest) harmless from any loss, cost, liability, expense (including reasonable attorneys' fees and costs), damage or injury of any kind or nature to any person or property arising from the Corporation's use of the easements granted and/or referenced in this Declaration, except to the extent said damage, injury or loss was/is in some way proximately and solely caused by such Lot Owner or his/her successors-in-interest, agents, family members, guests or invitees, or by third parties unrelated to the parties to this Declaration. This provision shall survive the termination of this Declaration and shall be binding and inure to the benefit of the parties hereto and their respective successors and assigns.

11. General Terms.

11.1. Attorneys' Fees. If any party commences arbitration, litigation or any other action to enforce or interpret this Declaration, the prevailing party shall be entitled to recover actual attorneys' fees and all litigation-related costs (including expert witnesses' fees) incurred in addition to all other items of recovery permitted by law.

11.2. Binding Effect. This Declaration shall bind and inure to the benefit of the parties' respective assigns, heirs and successors in interest; provided, however, there are no intended third-party beneficiaries to this Declaration other than those expressly set forth herein, and only the parties or their assigns and successors are entitled to enforce this Declaration.

11.3. Severability. If any term, covenant, or condition of this Declaration is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall remain in full effect.

11.4. Counterparts Signatures. This Declaration may be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

11.5. Preparation of Declaration; Review by Independent Counsel. No inference, assumption, or presumption shall be drawn if a party or a party's attorney prepared and/or drafted this Declaration; it shall be conclusively presumed that the parties participated equally in its preparation and/or drafting. Each party acknowledges that it has consulted independent counsel regarding this Declaration or has waived the right to do so, having been afforded sufficient opportunity to have this Declaration reviewed by independent counsel.

11.6. Recitals; Exhibits. Any recitals above, and any exhibits or schedules referred to and/or attached hereto, are incorporated by reference into this Declaration.

11.7. Authority. Each party signing this Declaration on behalf of an entity warrants that he or she has the authority to sign on behalf of said entity and, if requested, shall deliver a resolution or other written authorization evidencing such authority and consent by the partnership/corporation to be bound by this Declaration.

[SIGNATURES CONTAINED ON FOLLOWING PAGES)

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INTENDING TO LEGALLY BOUND, this Declaration was executed effective as of the date shown above.

Angler's Cove/Shady Cove Heights Water Company, an Oregon non-profit mutual benefit corporation

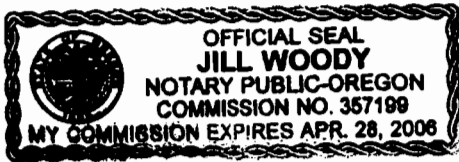
By: *Michel T. Malepsy*
Michel T. Malepsy, President

Angler's Cove, LLC, an Oregon limited liability company

By: *Michel T. Malepsy*
Michael T. Malepsy, Member

STATE OF OREGON)
) ss.
COUNTY OF JACKSON)

Personally appeared before me on May 24, 2005, the above-named Michael T. Malepsy, who acknowledged the foregoing to be his/her voluntary act and deed.



WITNESS my hand and official seal.

Jill Woody
Notary Public
My Commission Expires: 4-28-06

(SEAL)

STATE OF OREGON)
) ss.

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Owner(s) of Lot No. or Legal Address:

Signature

Print Name

Signature

Print Name

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COUNTY OF JACKSON)
) ss.

Personally appeared before me on _____, 200_, the above-named
_____, who acknowledged the foregoing to be his/her voluntary act
and deed.

WITNESS my hand and official seal.

Notary Public
My Commission Expires: _____

(SEAL)

STATE OF OREGON)
)
COUNTY OF JACKSON) ss.

Personally appeared before me on _____, 200_, the above-named
_____, who acknowledged the foregoing to be his/her voluntary act
and deed.

WITNESS my hand and official seal.

Notary Public
My Commission Expires: _____

(SEAL)

LIST OF EXHIBITS

- Exhibit A List of Lot Owners
- Exhibit B Plan of Existing Easements
- Exhibit C Plan of New Easements
- Exhibit D Plan of Lot 14 (Shady Cove Heights) Easement
- Exhibit E Legal Description of the Lots
- Exhibit F Design and Construction Expenses

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WATER STORAGE AGREEMENT
BETWEEN THE UNITED STATES OF AMERICA

AND

ANGLER'S COVE / SHADY COVE HEIGHTS WATER COMPANY, SHADY COVE,
OREGON

FOR

ORIGINALLY AUTHORIZED WATER STORAGE SPACE IN
LOST CREEK LAKE PROJECT, OREGON

THIS AGREEMENT, entered into this 27 day of February 2007 by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government") represented by the District Engineer executing this agreement, and Angler's Cove / Shady Cove Heights Water Company, an Oregon non-profit corporation (hereinafter called the "User");

WITNESSETH THAT:

WHEREAS, the Flood Control Act of 1962, (Public Law 87-874), authorized the construction, operation, and maintenance of the Lost Creek Project on the Rogue River, Oregon (hereinafter called the "Project"); and

WHEREAS, the User desires to enter into an agreement with the Government for the use of storage included in the Project for municipal and industrial water supply, and for payment of the cost thereof in accordance with the provisions of the Water Supply Act of 1958, as amended (43 U.S.C. 390b-f); and

WHEREAS, the User as shown in Exhibit A attached to and made a part of this agreement, is empowered to enter into an agreement with the Government and is vested with all necessary powers of accomplishment of the purposes of this agreement, including those required by Section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) (as amended).

NOW, THEREFORE, the Government and the User agree as follows:

ARTICLE 1 - Water Storage Space.

a. Project Construction. The Government, subject to the directions of Federal law and any limitations imposed thereby, has designed and constructed the Project so as to include therein space for the storage of water by the User.

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b. Rights of User.

(1). The User shall have the right to utilize an undivided 0.0016 percent (estimated to contain 5 acre-feet after adjustment for sediment deposits) of the usable conservation storage space in the Project elevations 1,872 feet and 1,751 feet above National Geodetic Vertical Datum, which is estimated to contain 308,250 acre-feet after adjustment for sediment deposits. This storage space is to be used to impound water for present demand or need for municipal and industrial water supply.

(2). The User shall have the right to withdraw water from the lake, or to request releases to be made by the Government through the outlet works of the Project, subject to the provisions of Article 1c and to the extent the aforesaid storage space will provide; and shall have the right to construct all such works, plants, pipelines, and appurtenances as may be necessary and convenient for the purpose of diversion or withdrawals, subject to the approval of the District Engineer as to design and location. The grant of an easement for right-of-way, across, in and upon land of the Government at the Project shall be by a separate instrument in a form satisfactory to the Secretary of the Army, in accordance with ER 405-1-12, under the authority of and in accordance with the provisions of 10 U.S.C. 2669 and such other authorities as may be necessary. Subject to the conditions of such easement, the User shall have the right to use so much of the Project land as may reasonably be required in the exercise of the rights and privileges granted under this agreement.

c. Rights Reserved. The Government reserves the right to control and use all storage in the Project in accordance with authorized Project purposes. The Government further reserves the right to take such measures as may be necessary in the operation of the Project to preserve life and/or property, including the right not to make downstream releases during such periods of time as are deemed necessary, in its sole discretion, to inspect, maintain, or repair the Project.

d. Quality or Availability of Water. The User recognizes that this agreement provides storage space for raw water only. The Government makes no representations with respect to the quality or availability of water and assumes no responsibility therefor, or for the treatment of the water.

e. Sedimentation Surveys.

(1). Sedimentation surveys will be made by the District Engineer during the term of this agreement at intervals not to exceed fifteen (15) years unless otherwise agreed to in writing by both parties. When, in the opinion of the District Engineer, the findings of such survey indicate any Project purpose will be affected by unanticipated sedimentation distribution, there shall be an equitable redistribution of the sediment reserve storage space among the purposes served by the Project including municipal and industrial water supply. The total available remaining storage space in the Project will then be divided among the various Project features in the same ratio as was initially utilized. Adjusted pool elevations will be rounded to the nearest one-half foot. Such findings and the storage space allocated to municipal and industrial water supply shall be defined and

described as an exhibit, which will be made a part of this agreement and the water control manual will be modified accordingly.

(2). The Government assumes no responsibility for deviations from estimated rates of sedimentation, or the distribution thereof. Such deviations may cause unequal distribution of sediment reserve storage greater than estimated, and/or encroachment on the total storage at the Project.

ARTICLE 2 - Regulation of and Right to Use of Water. The regulation of the use of water withdrawn or released from the aforesaid storage space shall be the sole responsibility of the User. The User has the full responsibility to acquire in accordance with State laws and regulations, and, if necessary, to establish or defend, any and all water rights needed for utilization of the storage provided under this agreement. The Government shall not be responsible for diversions by others, nor will it become a party to any controversies involving the use of the storage space by the User except as such controversies may affect the operations of the Project by the Government.

ARTICLE 3 - Operation and Maintenance. The Government shall operate and maintain the Project and the User shall pay to the Government a share of the costs of such operation and maintenance as provided in Article 5c. The User shall be responsible for operation and maintenance of all installations and facilities, which it may construct for the diversion or withdrawal of water, and shall bear all costs of construction, operation and maintenance of such installations and facilities.

ARTICLE 4 - Measurement of Withdrawals and Releases. The User agrees to furnish and install, without cost to the Government, suitable meters or measuring devices satisfactory to the District Engineer for the measurement of water, which is withdrawn from the Project by any means other than through the Project outlet works. The User shall furnish to the Government monthly statements of all such withdrawals. Prior to the construction of any facilities for withdrawal of water from the Project, the User will obtain the District Engineer's approval of the design, location and installation of the facilities including the meters or measuring devices. Such devices shall be available for inspection by Government representatives at all reasonable times. Releases from the water supply storage space through the Project outlet works shall be made in accordance with written schedules furnished by the User and approved by the District Engineer and shall be subject to Article 1c. The measure of all such releases shall be by means of a rating curve of the outlet works, or by such other suitable means as may be agreed upon prior to use of the water supply storage space.

ARTICLE 5 - Payments. In consideration of the right to utilize the aforesaid storage space in the Project for municipal and industrial water supply purposes, the User shall pay the following sums to the Government:

a. Project First Cost

(1). The User shall repay to the Government in a lump sum payment the amounts stated below which, as shown in Exhibit B-III attached to and made a part of this agreement, constitute the entire actual amount of the Project first cost (which includes the construction cost of \$3,030, interest

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during construction of \$341, interest accrued following the end of the 10-year interest free period 25 June 1992 of \$2,078 and present value of estimated joint-use cost of operation and maintenance for a 30-year period of \$1,239) allocated to the water storage right acquired by the User under this agreement. This total Project first cost assigned to the User is \$6,688. The interest rate to be used for purposes of computing interest during construction and accrued interest will be the coupon rate as determined by the Secretary of the Treasury on the basis set forth in the Water Supply Act of 1958, Title III of PL 85-500. For the Project, construction of which was initiated in FY1968 this interest rate is 3.253 percent.

The User shall repay:

0.05 percent of the total Project joint-use construction costs allocated to water supply	\$3,030
Interest during construction	\$341
Interest accrued from the end of the 10-year interest free period, 25 Jun 92 to the date of agreement approval, estimated to be 10 Nov 07	<u>\$2,078</u>
Present value of estimated joint-use costs of operation and maintenance (\$77) increasing at a growth rate of 2.5% annually for a 30-year period discounted at an interest rate of 7.652%.	<u>\$1,239</u>
Total amount of Project investment costs allocated to the Company	\$6,688

(2). The Project first cost shall be due and payable within 30 days after the User is notified by the District Engineer of approval of this agreement by the Secretary of the Army or his duly authorized representative.

b. Repair, Rehabilitation, and Replacement (RR&R) Costs. The User will be required to pay 0.0036 percent of the cost of joint-use RR&R of Project features. Payment of these costs shall be made either incrementally during construction or in lump sum (including interest during construction) upon completion of construction.

c. Annual Operation and Maintenance (O&M) Expense. The User shall, after expiration of 30 years from the effective date of this agreement, resume and continue to pay 0.0030 percent of the annual experienced joint-use O&M expense of the Project. Future payments will be due and payable in advance on the anniversary date of the effective date of this agreement and shall be based on O&M expense for the Project in the Government fiscal year most recently ended. The amount of each annual payment will be the actual experienced O&M expense (allocated joint-use) for the preceding fiscal year or an estimate thereof when actual expense information is not available.

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d. Prepayment. The User shall have the right at any time to prepay the indebtedness under this Article, subject to redetermination of costs as provided for in Article 6, in whole or in part, with accrued interest thereon to the date of such prepayment.

e. Delinquent Payments. If the User shall fail to make any of the aforesaid payments when due, then the overdue payments shall bear interest compounded annually until paid. The interest rate to be used for overdue payments due under the provisions of Articles 5a, 5b, 5c and 5d above shall be that determined by the Department of Treasury's Treasury Fiscal Requirements Manual (1 TFRM 6-8000, "Cash Management"). The amount charged on payments overdue for a period of less than one year shall be figured on a monthly basis. For example, if the payment is made within the first month after being overdue after a 15-day grace period from the anniversary date of the date of notification, one month's interest shall be charged. Thereafter a month's interest will be charged for any portion of each succeeding month that the payment is delinquent. This provision shall not be construed as giving the User a choice of either making payments when due or paying interest, nor shall it be construed as waiving any other rights of the Government, at law or in equity, which might result from any default by the User.

ARTICLE 6 - Adjustment to Project First Cost. The Project first cost shown in this agreement and the exhibits is based on actual final construction costs. Any further investment cost accruing to the User's water storage right shall be repaid under repair, rehabilitation and replacement costs if capitalized or under operation and maintenance expense if not capitalized.

ARTICLE 7 - Duration of Agreement. This agreement shall become effective when approved by the Secretary of the Army or his duly authorized representative and shall continue in full force and effect for the life of the Project.

ARTICLE 8 - Permanent Rights to Storage. Upon completion of payments by the User, as provided in Article 5a herein, the User shall have a permanent right, under the provisions of the Act of 16 October 1963 (Public Law 88-140, 43 U.S.C. 390e), to the use of the water supply storage space in the Project as provided in Article 1, subject to the following:

a. The User shall continue payment of annual operation and maintenance costs allocated to water supply.

b. The User shall bear the costs allocated to water supply of any necessary reconstruction, rehabilitation, or replacement of Project features, which may be required to continue satisfactory operation of the Project. The District Engineer will establish such costs and repayment arrangements shall be in writing in accordance with the terms and conditions set forth in Article 5b for reconstruction, rehabilitation, and replacement costs, and be made a part of this agreement.

c. Upon completion of payments by the User as provided in Article 5a, the District Engineer shall redetermine the storage space for municipal and industrial water supply in accordance with the provisions of Article 1e. Such redetermination of reservoir storage capacity may be further adjusted

from time to time as the result of sedimentation resurveys to reflect actual rates of sedimentation and the exhibit revised to show the revised storage space allocated to municipal and industrial water supply.

d. The permanent rights of the User under this agreement shall be continued so long as the Government continues to operate the Project. In the event the Government no longer operates the Project, such rights may be continued subject to the execution of a separate agreement or additional supplemental agreement providing for:

(1). Continued operation by the User of such part of the facility as is necessary for utilization of the water supply storage space allocated to it;

(2). Terms which will protect the public interest; and,

(3). Effective absolvment of the Government by the User from all liability in connection with such continued operation.

ARTICLE 9 - Release of Claims. The User shall hold and save the Government, including its officers, agents and employees harmless from liability of any nature or kind for or on account of any claim for damages which may be filed or asserted as a result of the storage in the Project, or withdrawal or release of water from the Project, made or ordered by the User or as a result of the construction, operation, or maintenance of the water supply facilities and appurtenances thereto owned and operated by the User except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE 10 - Transfers and Assignments.

a. The User shall not transfer or assign this agreement nor any rights acquired thereunder, nor suballot said water supply storage space or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this agreement, without the approval of the Secretary of the Army, or his duly authorized representative provided that, unless contrary to the public interest, this restriction shall not be construed to apply to any water that may be obtained from the water supply storage space by the User and furnished to any third party or parties, nor any method of allocation thereof.

b. Regarding approval of assignments, references to restriction of assignments shall not apply to any transfer or assignment to the Rural Economic Community Development (RECD), formerly Farmers Home Administration, or its successor agency, or nominee, given in connection with the pledging of this water storage agreement as security for any loans or arising out of the foreclosure or liquidation of said loans. The User will notify the Corps in writing 15 days prior to applying for a RECD loan. A copy of the final loan instrument will be furnished to the Corps for their record.

ARTICLE 11 - Officials Not to Benefit. No member of or delegate to Congress, or Resident

Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

ARTICLE 12 - Covenant Against Contingent Fees. The User warrants that no person or selling agency has been employed or retained to solicit or secure this agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the User for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this agreement without liability or in its discretion to add to the price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE 13 - Environmental Quality. During any construction, operation, and maintenance by User of any facilities, specific actions will be taken to control environmental pollution which could result from such activity and to comply with applicable Federal, State, and local laws and regulations concerning environmental pollution. Particular attention should be given to:

- a. Reduction of air pollution by control of burning, minimization of dust, containment of chemical vapors, and control of engine exhaust gases, and of smoke from temporary heaters;
- b. Reduction of water pollution by control of sanitary facilities, storage of fuels and other contaminants, and control of turbidity and siltation from erosion;
- c. Minimization of noise levels;
- d. On-site and off-site disposal of waste and spoil; and,
- e. Prevention of landscape defacement and damage.

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ARTICLE 14 - Federal and State Laws.

a. Compliance. In acting under its rights and obligations hereunder, the User agrees to comply with all applicable Federal and State laws and regulations, including but not limited to the provisions of the Davis-Bacon Act (40 U.S.C. 276a et seq.); the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333); Title 29, Code of Federal Regulations, Part 3; and Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646).

b. Civil Rights Act. The User furnishes, as part of this agreement, an assurance (Exhibit D) that it will comply with Title VI of the Civil Rights Act of 1964 (78 Stat. 241, 42 U.S.C. 2000d, et seq.) and Department of Defense Directive 5500.11 issued pursuant thereto and published in Part 300 of Title 32, Code of Federal Regulations.

c. Regulatory Program. Any discharges of water or pollutants into a navigable stream or

tributary thereof resulting from the User's facilities and operations undertaken under this agreement shall be performed only in accordance with applicable Federal, State, and local laws and regulations.

d. Lobbying Activities. The User furnishes, as part of this agreement, a certification (Exhibit E and if applicable, a Disclosure of Lobbying Activities) that it will comply with Title 31 U.S.C. Section 1352 of the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions (Public Law 101-121, October 23, 1989) and Federal Acquisition Regulation 52.203-12 issued pursuant thereto.

ARTICLE 15 - Definitions.

a. Originally authorized water storage. Municipal and industrial water supply storage included in projects either operational or under construction as of 17 November 1986.

b. Project first cost. The initial cost of the Project, including land acquisition, construction, and interest during construction on the value of land, labor, and materials used for planning and construction of the Project plus the accrued interest on these costs since the end of the 10-year interest free period.

c. Interest Payments.

(1). Interest during construction. An amount of interest, which accrues on expenditures for the establishment of Project services during the period between the actual outlay and the time the Project is first made available for water storage.

(2). Accrued interest. An amount of interest compounded following the end of the 10-year interest free period until payments begin to be made. If payments are made in "lump sum" following completion of construction, "accrued interest" will be applicable.

(3). Interest on the unpaid balance. When the Project is amortized, this is the interest on the unpaid balance (see Exhibit C) When payments are made in "lump sum," there is no amortization schedule and therefore, no "interest on the unpaid balance."

d. Specific costs. The costs of Project features normally serving only one particular Project purpose.

e. Joint-use costs. The costs of features used for any two or more Project purposes.

f. Plant-in-service date. This date is the date that the Project is physically available to initiate deliberate impoundment for water supply purposes.

g. Annual operation and maintenance (O&M) expense. Annual expenses funded under the O&M, General account. These expenses include the daily Project O&M costs as well as those O&M costs, which are not capitalized.

h. Repair, rehabilitation and replacement (RR&R) Costs. Costs funded in part under the Operation and Maintenance, General, or Construction, General accounts but not associated with initial Project first cost. Such expenditures are for costly, infrequent work and are intended to ensure continued satisfactory operation of the Project. For the purposes of this agreement the term "reconstruction" used in Article 8 "Permanent Rights to Storage" shall be included in this definition of repair, rehabilitation and replacement; repayment of those costs shall be the same as described in Article 5b.

i. Fiscal Year. Refers to the Government's fiscal year. This year begins on 1 October and ends on 30 September. The September calendar year corresponds to the fiscal year.

j. Life of the Project. This is the physical life of the Project.

k. District Engineer. Refers to the District Engineer of the Portland District of the United States Army Corps of Engineers, or his/her successor or designee.

ARTICLE 16 - Approval of Agreement. This agreement shall be subject to the written approval of the Secretary of the Army or his duly authorized representative and shall not be binding until so approved.


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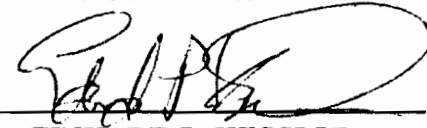
IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first above written.

APPROVED: THE UNITED STATES OF AMERICA

By 
THOMAS E. O'DONOVAN
Colonel, Corps of Engineers
District Commander

DATE: 31/12/2007
Day-Month-Year

ANGLER'S COVE / SHADY COVE HEIGHTS WATER COMPANY

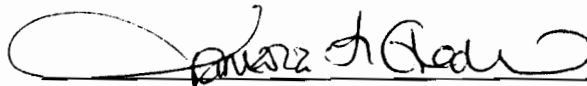
By 
EDWARD P. KESSLER
President / Chairman, Angler's Cove / Shady Cove Heights Water Company,
an Oregon non-profit corporation

DATE: 27/11/2007
Day-Month-Year

EXHIBIT A: CERTIFICATION

I Tamara Gledhill Attorney for the Angler's Cove / Shady Cove Heights Water Company, hereby certify that the foregoing agreement executed by Edward P. Kessler, President / Chairman of Angler's Cove / Shady Cove Heights Water Company, an Oregon non-profit corporation, is within the scope of his authority to act upon behalf of Angler's Cove / Shady Cove Heights Water Company, and that in my capacity as Attorney for the Company, I have considered the legal effect of Section 221 of the 1970 Flood Control Act (Public Law 91-611) and find that the Company is legally capable of entering into the obligations contained in the foregoing agreement and that, upon acceptance, it will be legally enforceable.

Given under my hand, this 13th day of November 2007



TAMARA GLEDHILL

Attorney for Angler's Cove / Shady Cove Heights Water Company

EXHIBIT B: COST COMPUTATIONS

I - LAKE STORAGE

Feature	Elevation (ft, msl)	Usable Storage (ac-ft)	Percent of	
			Conservation Storage	Water Supply Storage
Seasonal Flood Control	1872-1812	180,000		
Seasonal Conservation	1812-1752	128,250 ¹		
Total Usable Storage	1872-1751	308,250 ¹	100.000	
Fishery Release		125,000	40.552	
Irrigation		35,000	11.354	
Water Supply		10,000	3.244	100.000
(City of Phoenix, 1982)		(400)	(0.130)	(4.000)
(City of Phoenix, 1991)		(600)	(0.195)	(6.000)
(City of Jacksonville, 1996)		(400)	(0.130)	(4.000)
(City of Shady Cove, 1998)		(3)	(0.00097)	(0.030)
(City of Ashland, 2002)		(1,001)	(0.3247)	(10.010)
(City of Talent, 2002)		(1,292)	(0.4191)	(12.920)
(City of Shady Cove, 2002)		(12)	(0.0039)	(0.120)
(Pvt Corp of Magma Stone Products, 2002)		(2)	(0.0006)	(0.020)
(Shady Cove Waterworks, LLC, 2006)		(100)	(0.0324)	(1.000)
(Rogue Aggregates, 2007)		(5)	(0.0016)	(0.050)
(Angler's Cove/Shady Cove Heights Water Company, 2007)		(5)	(0.0016)	(0.050)
Joint Use ²		138,250 ¹	44.850	
Inactive	1751-1640	122,250 ¹		
Dead	below 1640	21,000		
Sedimentation (100 year)		13,500 ¹		
TOTAL PROJECT STORAGE		465,000 ¹		

¹ Storage remaining after 100 years of sedimentation from the date the project is operational. It is estimated that 135 acre feet of sedimentation will occur annually. Half (67.5 acre feet) in the area inactive storage space annually.

² Joint use storage to be used primarily for fish enhancement, in reservoir recreation, municipal and irrigation purposes until required for carry over storage draft in a low runoff water year to meet authorized project purposes.

EXHIBIT B: (Continued)

II - ALLOCATION OF ACTUAL CONSTRUCTION COST

<u>Feature</u>	<u>Cost (\$)</u>	<u>Percent of Project Joint-Use Construction Cost</u>
Flood Control	\$44,407,000	52.673
Specific	(26,000)	
Joint-Use	(44,381,000)	
Recreation	\$11,420,000	1.517
Specific	(10,142,000)	
Joint-Use	(1,278,000)	
Water Supply	\$6,060,000	7.192
Specific		
Joint-Use	(6,060,000)	
Irrigation	\$7,007,000	8.316
Specific		
Joint-Use	(7,007,000)	
Power	\$37,925,000	22.158
Specific	(19,255,000)	
Joint-Use	(18,670,000)	
Fish & Wildlife	\$10,824,000	8.144
Specific	(3,962,000)	
Joint-Use	(6,862,000)	
Total	\$117,643,000	100.000
Specific	(33,385,000)	
Joint-Use	(84,258,000)	

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EXHIBIT B: (Continued)

III – PROJECT FIRST COST TO BE REPAID BY USER FOR WATER SUPPLY STORAGE

Cost of 5acre-feet of water supply storage (0.05% x \$6,060,000)	=	\$3,030
Cost of specific facilities	=	<u>\$0</u>
Subtotal		\$3,030
Interest during construction ¹	=	<u>\$341</u>
Subtotal		\$3,371
Interest accrued from the end of the 10-year interest free period, 25 Jun 1992 to date of agreement approval, estimated at 10 Nov 2007		<u>\$2,078</u>
Present value of estimated joint-use costs of operation and maintenance (\$77) increasing at a growth rate of 2.5% annually for a 30-year period discounted at an interest rate of 7.652%.		<u>\$1,239</u>
Total amount of Project investment costs allocated to Angler's Cove/Shady Cove Heights Water Company		\$6,688

Notes:

¹ Based on actual construction expenditures by quarter and an interest rate of 3.253%.

EXHIBIT B: (Continued)

IV- TOTAL ANNUAL COST TO USER FOR WATER SUPPLY STORAGE

Interest and amortization

Non-applicable for this agreement due to lump sum payment

Operation and Maintenance¹

Joint-Use actual for FY 06
 $0.05\% \times 5.97\%^2 \times \$2,572,567$ = \$77

Major Replacement³

Joint-Use actual for FY 06
 $0.05\% \times 7.19\%^4 \times \0.00 = \$0

TOTAL ESTIMATED ANNUAL COST **\$77**

Notes:

¹ Annual payment due and payable on the date specified in Article 5c after the end of the 30-year period.

² Percent of Project joint-use operation and maintenance cost allocated to water supply.

³ Major replacement costs are payable only when incurred as specified in Article 5b. It is suggested that the amount shown be placed in a reserve or sinking fund for future contingency.

⁴ Percent of Project joint-use major replacement cost allocated to water supply.

⁵ Major replacement cost in the year incurred.

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EXHIBIT C: AMORTIZATION SCHEDULE PRESENT DEMAND

Not applicable due to lump sum payment prior to initiation of use.

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EXHIBIT D: ASSURANCE OF COMPLIANCE

ASSURANCE OF COMPLIANCE WITH THE DEPARTMENT OF DEFENSE DIRECTIVE UNDER TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AS AMENDED; THE AGE DISCRIMINATION ACT OF 1975; AND THE REHABILITATION ACT OF 1973, AS AMENDED


The party executing this assurance, being the applicant recipient of Federal financial assistance under the instrument to which this assurance is attached; HEREBY AGREES THAT, as a part of its obligations under the aforesaid instrument, it will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended (42 U.S.C. 2000d), and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300), issued as Department of Defense Directive 5500.11 (December 28, 1964), pursuant to that title; The Age Discrimination Act of 1975 (42 U.S.C. 5102); the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that in accordance with the aforementioned Title, Directive and Acts, no person in the United States shall on the ground of race, color, age, sex, religion, handicap or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives Federal financial assistance from the Department of the Army and HEREBY GIVES ASSURANCE THAT it will immediately take any measures necessary to effectuate this agreement.

If any personal property or real property, or interest therein, or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant-recipient by the Department of the Army, or if such assistance is in the form of personal property or real property, or interest therein or structure thereon, then this assurance shall obligate the applicant-recipient or in the case of any transfer of such property, any transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for the period during which it retains ownership or possession of the property whichever is longer. In all other cases, this assurance shall obligate the applicant-recipient for the period during which the Federal financial assistance is extended to it by the Department of the Army. The Department of the Army representatives will be allowed to visit the recipient's facilities. They will inspect the facilities to ensure that there are no barriers to impede the handicap's accessibility in either programs or activities.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the applicant-recipient by the Department of the Army, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The applicant-recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall have the right to seek judicial enforcement of this assurance. This

assurance is binding on the applicant-recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the applicant.

Date 27/11/2007


EDWARD P. KESSLER
President / Chairman,
Angler's Cove / Shady Cove Heights Water
Company, an Oregon non-profit corporation

Address:
PO Box 1029
Shady Cove, OR 97539

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EXHIBIT E: CERTIFICATION REGARDING LOBBYING

Water Supply Storage Agreement LOST CREEK LAKE PROJECT, OREGON

1. The undersigned certifies, to the best of their knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the water supply agreement for Lost Creek Lake Project, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. This form is available to users by requesting it telephonically at (202)761- 0115, or by writing to HQUSACE (CECW- P), 441 G Street, NW, Washington, D.C., 20314-1000.

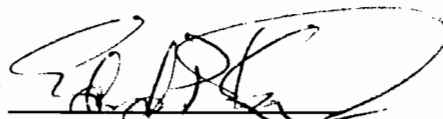
c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31 U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

COMPANY

ANGLER'S COVE / SHADY COVE HEIGHTS WATER

BY



EDWARD P. KESSLER

President / Chairman,

Angler's Cove / Shady Cove Heights Water
Company, an Oregon non-profit corporation

Application for a Permit to Use
SURFACE WATER

Re: **Angler's Cove/Shady Cove Heights Water Company**
February 2009

To Jerry Sauter,

This is an application for a "Permit to Use Surface Water". This request is for 17 acre-feet of water from the Lost Creek Storage.

Through the recommendation of Larry Mentee, Jackson County Water Master, we are requesting the transfer of the original 12 acre-foot permit from the city of Shady Cove to be combined with the new 5 acre-foot of water permit. The Army Corp of Engineers has completed the transfer of ownership of the original 12 acre-feet from the City of Shady Cove to Angler Cove/Shady Cove Heights Water Company in July 2008.

Angler Cove/Shady Cove Heights Water Company has operated since May 24, 2005 with an original purchase of 12 acre-feet of water from July 2002 by Angler's Cove LLC represented by Mike Malepsy.

The new 5 acre-feet of water will not be utilized until the remaining lots are complete and at this time there is no plans on any of the lots for building in the near future. The largest water use was in 2006 and at was just less than 10 acre-feet.

Included exhibits are as follows:

- Application for "Surface Water"
- Exhibit #1 "Original Storage Agreement"
- Exhibit #2 "New Storage Agreement"
- Exhibit #3 "Water Supply Declaration, Agreement & Easement"
- Exhibit # 4 " Names and Addresses" of lot owners.
- Exhibit # 5 "Transfer and Assignment" of the 12 acre-foot of water.
- Exhibit # 6 "Map of Properties"

I have included a check for \$707.00 for "Permit to Use Surface Water" for 17 acre-feet. Please contact me if you need anything more.



Edward Kessler, President

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State of Oregon Water Resources Dept.
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Date: March 21, 2009

Re: 87408

Herb,

I was able to meet with the city manager late Friday afternoon. She signed the document and I have also included her business card.

As you will see the city does not have any ordinances or policy for the type of land use. She stated that the city at the time approve the conditional use through the city planning department & city council. This dates back to 2001 when the first 12-acre feet of water was purchased from the corp.

If there is anything more that I can do to complete the permit process please let me know.

Thanks again for your help.



Edward P. Kessler, President

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5-87408



Water Resources Department

Permit to Appropriate Only Stored Water – Expedited Secondary

Today's Date: Monday, March 02, 2009

Base Application Fee to appropriate Stored Water.		\$250.00
Acre feet of Stored Water to be diverted.	17	\$157.00
Permit Recording Fee. ***		\$300.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	Recalculate	
Estimated cost of Permit Application		\$707.00

[Return to Fee Calculator Options page](#)

[OWRD Fee Schedule](#)

Fee Schedule Publication Date: July 1, 2007
Fee Calculator Version: B20081112