



TELEPHONE (503) 357-5717  
CELL (503) 939-8381  
FAX (503) 357-5698  
billflatz@stuntzner.com

2137 19<sup>TH</sup> Avenue  
FOREST GROVE, OREGON 97116

COOS BAY - BROOKINGS - FOREST GROVE - DALLAS

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WATER RESOURCES DEPT  
SALEM, OREGON

February 16, 2012

**TO:** Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301

**SUBJECT:** Application to Store Water in a Reservoir, Alternate Review,  
Foxglove Properties, LLC / Domaine Serene Vineyards & Winery, Inc.

To whom it may concern:

Please find enclosed our map, application, supplemental forms, supporting information and the fee to store water in a reservoir, alternate review process.

We will be applying for a surface water right for supplemental irrigation with the stored water in this reservoir. As instructed by the Department we will wait 4 to 6 weeks to submit the surface water application. The primary right is from ground water and our future surface water application will specifically request that in the interest of conserving the groundwater supplies the supplemental right may be exercised at when water is available from the stored water supply, per OAR 690-330-0020(3).

We have been working with OWRD to determine the source of the water in this pond since 2009. We conducted a slow pump test in 2009 and re-tested the pond in 2010 using electronic testing equipment and a rapid draw down. The 2010 test demonstrated beyond reasonable doubt that the pond fills with rain runoff. Please find attached in the supporting information our test data from 2010 and the email response from OWRD.

Ken and Grace Evanstad are partners in Foxglove Properties, LLP. All the property in this vineyard is owned by this LLP. Ken and Grace Evanstad are officers and founders of Domaine Serene Vineyards and Winery. Ken and Grace are often gone and would like the water rights to be handled by the Operations and Facilities Superintendant Richard Ramakers, or the Director of Finance and Accounting, Aurthur Weiner. Please find attached a letter from Kenneth Evanstad assigning Richard Ramakers and Aurthur Weiner as authorized agents for all Domaine Serene water rights.

Section 5 of the application addresses ownership, easements and roadways. We have attached a copy of the deed to the tax lot. We have listed the easements as provided in the owner's Title report. We have also included a reduced copy of the 2010 tax map, this tax map appears to show the platted road and 24 foot easement as an extension of Breyman Orchards Road. (The tax map changed from 2009 to 2010.) Whether these are easements or roadways they have will have no effect this the pond.

R-87791

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Please call if you have any questions or need any further information. I am available on my cell phone at most any time, 503-939-8381.

Sincerely,  
*Stuntzner Engineering & Forestry, LLC*

  
Bill Flatz, PE, CWRE

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SALEM, OREGON

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

# Application for a Permit to Store Water in a Reservoir

(Alternate Review)

Alternate Review Process (ORS 537.409): You may use this form for any reservoir storing less than 9.2 acre-feet or with a dam less than 10 feet high.

### Use a separate application for each reservoir

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, insert "n/a". A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

### 1. APPLICANT INFORMATION

Applicant: Richard Ramakers, Operations and Facilities Superintendent  
First Last

Mailing Address: Foxglove Properties, LLC / Domaine Serene Vineyards & Winery, Inc. 6555 NE Hilltop Lane

Dayton Oregon 97114  
City State Zip

Phone: 503-846-4600  
Home Work Other

\*Fax: 503-846-4500 \*E-Mail Address: \_\_\_\_\_  
*\*optional information*

### 2. AGENT INFORMATION

The agent is authorized to represent the applicant in all matters relating to this application.

Agent: Bill Flatz  
First Last

Mailing Address: 2137 19th Avenue

Forest Grove Oregon 97116  
City State Zip

Phone: 503-648-6414 503-357-5717 cell, 503-939-8381  
Home Work Other

\*Fax: 503-357-5698 \*E-Mail Address: billflatz@stuntzner.com  
*\*optional information*

### 3. LOCATION AND SOURCE

A. Reservoir Name: Quarry Pond

B. Source: Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, or an unnamed stream or spring.  
 Source: Runoff Tributary to: no-name Creek, to Hess Creek, to Willamette

C. County in which diversion occurs: Yamhill

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 SALEM, OREGON

App. No. <u>R-87791</u>	For Department Use	Date _____
	Permit No. _____	

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**D. Reservoir Location**

Township (N or S)	Range (E or W)	Section	quarter/quarter	tax lot number
3S	3W	33	NE/NW	318

**E. Dam:** Maximum height of dam: 0 feet. If excavated, write "zero feet".

**F. Quantity:** Amount of water to be stored in the reservoir at maximum capacity. List volume in acre-feet: 11

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars)  Yes  No

**4. WATER USE**

Indicate the proposed use(s) of the stored water. **NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stockwater, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.** If any use will be out of reservoir use, regardless of the type of storage listed, a secondary application must be filed to appropriate the stored water.

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**5. 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 5)

There are no encumbrances

This land is encumbered by easements, right of way, roads 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). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

List the names and mailing addresses of all affected landowners:

24' ROADWAY, BOOK 111 PAGE 349 RECORDED JUNE 3, 1936 TO EARL AND MAGGIE NAMITZ, FROM 2010 TAX MAP APPEARS TO NOW BE

A PART OF BREYMAN ORCHARDS ROAD. 30' EASEMENT OVER LOT 2 TO THE BENEFIT OF LOT 1, BOTH BEING PART OF THIS VINEYARD.

**6. ENVIRONMENTAL IMPACT**

**A. Channel:** Is the reservoir in-stream or off channel?  in-stream  off channel

**B. Wetland:** Is the project in a wetland?  Yes  No  Don't know

**C. Existing:** Is this an existing reservoir?  Yes  No

If yes, how long has it been in place? 14 +/- years.

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D. **Fish Habitat:** Is there fish habitat upstream of the proposed structure?  Yes  No  Don't know  
If yes, how much? \_\_\_\_\_ miles.

E. **Partnerships:** Have you been working with other agencies?  Yes  No

Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

### 7. DESCRIPTION

Provide a description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

This existing pond is an old rock quarry pit. The pond currently fills in the winter and slowly leaks out along the overflow pipe in the summer. the runoff generally does not occur until November. Because there is no channel involved the plan is to simply stop the leakage and pump the water from the existing pond.

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If the diversion involves a dam, use this space for sketches of the diversion (e.g. cross-section of the dam with its dimensions, dimension and placement of outlet pipe, means of passing live flow outside of the authorized storage season, and means for providing fish passage).

This pond does not include a dam.

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### 8. SIGNATURE

I swear that all statements made and information provided in this application are true and correct to the best of my knowledge.

  
Landowner Signature

2-28-2012  
Date

**Before you submit your application be sure you have:**

- Answered each question completely.
- Included a legible map that includes Township, Range, Section, quarter-quarter and tax lot number.
- The map must meet map requirements to be accepted.
- Included a land use form or receipt stub signed by a local planning official.
- Included a check payable to Oregon Water Resources Department for the appropriate amount.

**FEE STRUCTURE:** The fee is based on the number of acre-feet proposed to be stored. The base fee is \$300. In addition, there is a fee of \$25 per acre-foot or fraction thereof. Example: 0.3 AF= \$325; 1.5 AF= \$350; 20.0 AF= \$800; 30.0 AF= \$1050. Plus a permit recording fee of \$400 (this fee is refunded if no permit is issued).

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# WATERMASTER ALTERNATE RESERVOIR APPLICATION REVIEW SHEET

Recommendations for Water Right Applications under the Alternate Reservoir review process (ORS 537.409)

In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights. (ORS 537.409 (6))

Within 60 days after the department provides public notice...any person may submit detailed, legally obtained information in writing, requesting the department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

**The review of alternate reservoirs is limited to these criteria only.**

Application #: R-

Applicant's Name:

*Fox & Love Properties*

1) Does the proposed reservoir have the potential to injure existing water rights?

NO

YES

Explain:

2) Can conditions be applied to mitigate the potential injury to existing water rights?

NO

YES

If YES, which conditions are recommended:

*Limit storage season to Nov 1 through June 30 of each year*

3) Did you meet with staff from another agency to discuss this application?

NO

YES

Who:

Agency:

Date:

Who:

Agency:

Date:

*we met / OWRO geologist to determine if pit was filled / SW / GW.*

Watermaster signature:

*Michael J. McLeod*

Date: *12/6/11*

WRD Contact:

Caseworker:

Water Rights Division, 503-986-0900 / Fax 503-986-0901

**NOTE: This completed form must be returned to the applicant.**

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SALEM, OREGON

*7/30*

*R-82791*

To Bill Flatz

Fax 503.357.5717

### ODFW Alternate Reservoir Application Review Sheet

**Information to be completed by the applicant**

Applicant Name/Address/Phone/Email: FOX GLOVE PROPERTIES LLP / RICHARD RATHBORN  
6555 NE. HILTOP LANE, DAYTON OR 97114 OPERATIONS + FACILITY SUPERINTENDANT

Reservoir Name: CARRY POND Source: RUNOFF Volume (AF): 10 AC FT

Twp Rng Sec QQ: T.35, R.3W, SEC 33, NE Basin Name: WILLAMETTE  in-channel  off-channel

Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

**Information to be completed by Oregon Department of Fish and Wildlife (ODFW) District Staff**

- 1) Is the proposed project and AO<sup>1</sup> off channel? .....  YES  NO  
 (if yes then proceed to #4; if no then proceed to #2)
- 2) Is the proposed project or AO located where NMF<sup>2</sup> are or were historically present?.....  YES  NO  
 (if yes then proceed to #3; if no then proceed to #4)
- 3) If NMF are or were historically present:
- a. Is there an ODFW-approved fish-passage plan?..... NA  YES  NO
  - b. Is there an ODFW-approved fish-passage waiver or exemption?.....  YES  NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

- 4) Would the proposed reservoir pose any other significant detrimental impact to an existing fishery resource?.....  YES  NO  
It's a quarry and completely enclosed.  
 Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

Any diversion or appropriation of water for storage during the period \_\_\_\_\_ through \_\_\_\_\_ poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

NA

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<sup>1</sup> AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

<sup>2</sup> NMF = Native Migratory Fish Species in Oregon as defined by OAR 63504120005 (32)

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If **YES**, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?  
 **NO** (explain)       **YES** (select from Menu of Conditions on next page)

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ODFW Signature: *Tom Murtagh*

Print Name: Tom Murtagh

ODFW Title: District Fish Biologist

Date: Oct 20, 2011

**NOTE:** This completed form must be returned to the applicant.

Revised 8/2/11

9/30

R-8771

# Land Use Information Form



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

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

**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) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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WATER RESOURCES DEPT  
SALEM, OREGON



# 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: FOXGLOVE PROPERTIES LLC ATTN: RICHARD RAMAKERS  
OPERATIONS + FACILITIES SUPERINTENDANT  
Mailing Address: 6555 NE HILLTOP LANE  
City: DAYTON State: OR Zip: 97114 Day Phone: 503-864-4600 x 238

### A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:			Proposed Land Use:
35	3W	33	SE/NE	318	EFU	<input checked="" 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	
						<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

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

Estimated quantity of water needed: 10 AC FT  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: EXISTING QUARRY POND, OWNER IS  
APPLYING FOR PERMIT TO STORE RUNOFF FROM  
HILLSIDE.

**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

11/30

R-877A

## 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): 402.10(C)

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)

**If approvals have been obtained but all appeal periods have not ended, check "Being pursued".**

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

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

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Name: Stephanne Armstrong Title: Associate Planner  
 Signature: [Signature] Phone: 503-434-7516 Date: 6/3/11  
 Government Entity: Yamhill County

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

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**Receipt for Request for Land Use Information**

**WATER RESOURCES DEPT  
SALEM, OREGON**

Applicant name: FOXGLOVE PROPERTIES LLC

City or County: YAMHILL Staff contact: \_\_\_\_\_

Signature: [Signature] Phone: 503-434-7516 Date: 6/3/11

12/30

R-87791



**DOMAINE SERENE**

*Exquisite Oregon Pinot Noir and Chardonnay*

*Vineyards of the Domaine*

MARK BRADFORD • GRACE • CÔTE SUD • GOLD EAGLE • CLOS DU SOLEIL • ÉTOILE • FLEUR DE LIS • WINERY HILL • JERUSALEM HILL

**TO:** Whom it may concern  
Oregon Water Resources Department  
725 Summer Street NE  
Salem, OR 97301

**SUBJECT:** Assigning authorized agent(s).

We request that the Oregon Water Resources Department accept either the signature of our Operations and Facilities Superintendent, Richard Ramakers, or our Director of Finance and Accounting, Arthur Weiner, in regard to Foxglove Properties LLP and Domaine Serene Vineyards and Winery Inc. for all water rights issues.

Correspondence to be addressed:

Attn: Rich Ramakers  
Operations and Facilities Superintendent  
6555 NE Hilltop Lane  
Dayton, OR 97114

Kenneth L. Evenstad

2/9/12  
Date

President, Domaine Serene Vineyards and Winery, Inc.

General Partner, Foxglove Properties, LLP

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WATER RESOURCES DEPT  
SALEM, OREGON

13/30

## Bill Flatz

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**From:** Karl Wozniak [wozniakc@wrд.state.or.us]  
**Sent:** Tuesday, November 23, 2010 2:55 PM  
**To:** billflatz@stuntzner.com; Karl C. Wozniak; Joshua A. Hackett; Marc Norton  
**Cc:** Artie Weiner; Richard Ramakers; Linda Peterson; Eric Urstadt  
**Subject:** RE: Domaine Serene quarry pond pump test

Hello Bill,

I have reviewed your data and reports and agree that one can reasonably conclude that the pond is essentially filled by runoff and direct rainfall and gets little, if any, inflow from the groundwater system. A review of nearby well logs suggests that the first productive water-bearing zone in the basalts is likely to be 20-50 feet below the bottom of the pond. As long as the pond is not deepened, diversions from the pond will not affect the basalt groundwater system.

Karl Wozniak

---

**From:** Bill Flatz [mailto:billflatz@stuntzner.com]  
**Sent:** Monday, November 08, 2010 2:51 PM  
**To:** Karl C. Wozniak; Joshua A. Hackett; Marc Norton  
**Cc:** Artie Weiner; Richard Ramakers; Linda Peterson; Eric Urstadt  
**Subject:** Domaine Serene quarry pond pump test

Karl, Josh and Marc:

Please find attached a pdf of our preliminary report on the Domaine Serene pump test at the quarry pond. This report and the supporting data indicate that the pond is holding only rainwater runoff.

The report is in black and white because the file for color is ten times larger. If you want to see the report pictures in color please let me know and I will send those pages separately.

The data graphed and the topo map are also attached.

Your prompt reply would be appreciated. The recording instrumentation have not been as reliable as we expected, the monitoring and maintenance of the logger is difficult with the work schedule at the winery.

Sincerely,  
Bill Flatz, PE, CWRE

Stuntzner Engineering & Forestry  
2137 19th Avenue  
Forest Grove, OR 97116  
office 503-357-5717  
fax 503-357-5698  
cell 503-939-8381

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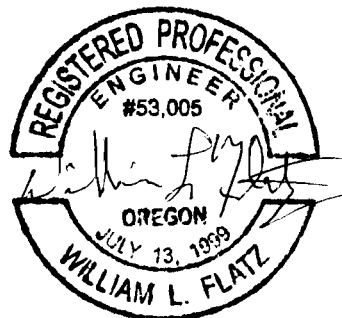
TELEPHONE (503) 357-5717  
CELL (503) 939-8381  
FAX (503) 357-5698  
billflatz@stuntzner.com

2137 19<sup>TH</sup> Avenue  
FOREST GROVE, OREGON 97116

COOS BAY - BROOKINGS - FOREST GROVE - DALLAS

**DOMAINE SERENE QUARRY POND  
PRELIMINARY POND PUMP TEST REPORT  
11-5-10**

**PREPARED FOR:  
DOMAINE SERENE WINEARY  
6555 NE HILLTOP LANE  
DAYTON OREGON 97114**



EXPIRES 12/31/13

**TO:** Josh Hackett, Karl Wozniak, Marc Norton  
Oregon Department of Water Resources

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MAR 28 2012

WATER RESOURCES DEPT  
SALEM, OREGON

Josh, Karl and Marc:

The data contained in the following report and the attachments is conclusive evidence that the water in the Domaine Serene quarry pond is collected runoff and therefore surface water.

The purpose of this preliminary report is to share with you the initial information gathered from the 2010 quarry pond pump test. If you agree with our conclusions from this data we would like to get a response informing us of your agreement and notifying us when we can stop the data collection. The winery is busy with the harvest and the crush and monitoring the instrumentation has become difficult.

15/30

R-87791

**PRE PUMP SEGMENT OF TEST:**

During this test we measured the water level using a Wild NA24 automatic level at various times to check the data from the electronic logger. From 7-21 to 9-8 the water level dropped 1.49 feet. During the same time period the evaporation bucket water level dropped 0.9 feet. Over the 49 days the average drop was 0.03 feet per day, approximately 0.02 feet per day from evaporation and over 0.01 feet per day from leakage. We assume that this water leaks under the quarry floor and finds its way downhill to Hass Creek continuing its surface water trip.

Note: We believe that the pond has a minor leak through the access area, there has been some bentonite applied lower on the rock fill but it shows cracking and may be leaking. The pond level from observation drops faster when the water level is higher than it was during this test. As the level drops the leakage appears to slow down.

On 9-8 we had Rain for Rent install the data logger, the pressure transmitter and the tipping bucket rain gage. The logger was set to read both instruments at 15 minute intervals. While testing the instruments and data Rain for Rent elected to install a different pressure transmitter. On 9-13 we began recording data that we could graph. The data did not work well, the water level readings seemed to wander and the tipping bucket rain gage was registering massive rain during dry weather.

Rain for rent found the problem with the rain gage but there is some environmental interference in the area that causes the water level readings to wander during the day and gives faulty data on the rain gage at times. We reset the data logger to record each minute and started collecting data on 9-22. By checking the physical rain gages on site we were able to determine when the tipping bucket rain data was wrong.

The weather was relatively dry during the five days before we started the pump test, a total of 0.10 inches of precipitation fell in the form of scattered showers over the five days. With the showers and clouds the evaporation during this period dropped to 0.004 feet per day. The total drop including rainfall was 0.014 feet per day, 0.01 to leakage and 0.004 to evaporation.

After talking with Karl Wosniak and having him look over the data we were getting we moved ahead with the pump test with a relatively good weather forecast.

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**PUMP SEGMENT OF TEST:**

On Monday 9-27-10 at 2:18 PM we started the dewatering pump. The logger data was found to be drastically scattered by the power to the pump, on 9-29 we met on site with Rain for Rent and they moved the logger and transducer, this involved turning off the pump for approximately 3 hours.

On 9-30 while checking the pond the pump was found off. The shutdown was automatic and we do not know why it stopped. Rich Ramakers restarted the pump at 3:30 PM and the pump ran OK after that. From the logger data it does not appear that the pump was off for very long.

On 10-2, Saturday, Jack Hastings checked the pond and was concerned about the low water level, he shut down the pump at 9:50 AM. On Monday, 10-4 at 11:35 AM Rich Ramakers turned on the pump. On Tuesday, 10-5 at 3:58 PM Rich turned the pump off and the dewatering was done.

16/30



The total pumping time is 141 hours.  
The total volume pumped by the meter is 3.24 acre-feet.  
The average pumping rate is 124.73 gallons per minute.



Pond at low water facing south on 10-7-10, note intake exposed on right.

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#### **POST-PUMPING SEGMENT OF TEST:**

From Tuesday, 10-5 at 3:58 to Thursday 10-7 at 2:53 PM the logger continued to record data. The water level data appears good. The rain gage data continued to have irregular readings at times. The weather remained dry.

After 2:53 PM on Thursday 10-7 the logger quit recording data, we did not discover this until the following week. We know from monitoring the weather on site and the rain gage that it rained 1.3 inches on Sunday 10-10 and Monday 10-11, by connecting the data from before and after this period we were able to reconstruct the water level profile. The 1.3 inches of rain resulted in the pond level rising 2.8 inches. This seems reasonable since it is a significant rain and the actual hole the pond is in has an area larger than the surface area of the pond at this water level.

Once we found the lack of data and found the problem was dead batteries we replaced the batteries and restarted the data logger on Thursday 10-14 at 3:35 PM.

From 10-14 to late on 10-21 we had dry weather and the logger was recording data. As before the pump test the pond level was dropping slightly, 0.014 feet per day. This slight drop in water level is consistent during this period and is composed of 0.006 feet per day evaporation and 0.008 feet per day leakage

From 10-21 to 10-25 (current data in hand) there was 2.2 inches of rain and the logger was recording data. The 2.2 inches of rain resulted in an increase in the pond level of approximately 9 inches. This suggests that the ground has become wet enough that some runoff is starting. Unless we have an exceptionally dry period ahead the pond level will continue to rise with the rain events.

R-07791

12/30



**WATERSHED:**

The quarry pond was outlined in AutoCAD using an air photo and a USGS Quad Map. The watershed area is 29.5 acres. The USDA annual rainfall for this location is 40 inches. The USDA mean annual runoff for this location is 20 inches. This annual runoff number is intended for normal ground cover, the majority of the watershed is trees and brush, but the quarry is another issue. The quarry would typically be expected to have runoff in excess of plant covered areas, however in this quarry on the slopes there is piles of loose rock, this will not hold as much water as natural ground but will hold more than bare solid rock. For purposes of calculating the watershed runoff we will use the USDA runoff of 20 inches.

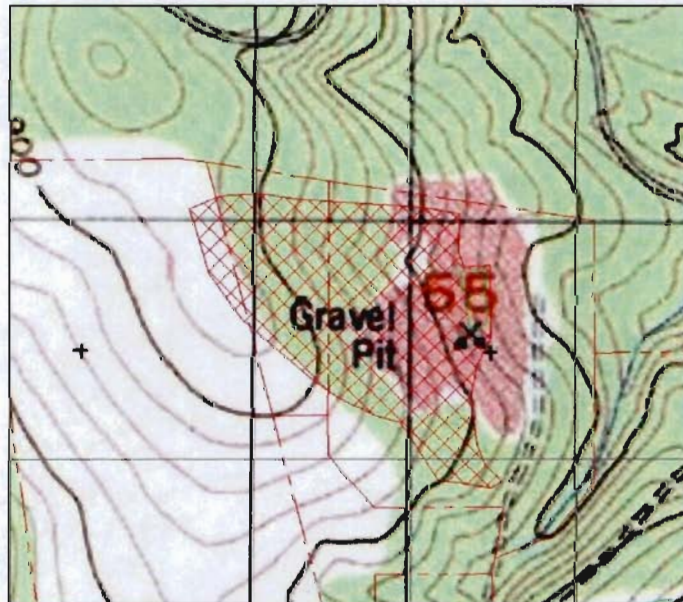
Calculated annual runoff from the quarry pond watershed = 49.2 acre-feet.

Calculated volume of pond at existing overflow, El. 726.36' = 7.4 acre-feet.

Calculated volume of runoff flowing through the pond after filling = 41.8 acre-feet.



Watershed hatched over air photo with property lines.



Watershed hatched over USGS Quad map.

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Overflow stand pipe on 2-17-10, grass shows that overflow has been active. Initial 12 inches +/- of pond leaks out quickly. The leakage slows as the water level drops.

### TOPOGRAPHY SURVEY:

The quarry pond was surveyed after the dewatering was complete. The calculated volume of water from the survey data is 3.12 acre-feet. The metered volume of water pumped out is 3.24 acre-feet. The volume measured by the meter is 3.7% larger than the calculated volume of the pond, here are a couple possible reasons for this:

1. The technician who set up the dewatering meter said when we started the dewatering that they installed the valve upstream of the meter to have the ability to regulate the flow, the reason for this was that they wanted to limit the flow rate to 120 gallons per minute because the accuracy of the meter declined above that rate. The meters claimed accuracy is 3% up to 120 gallons per minute and 5% over 120 gallons per minute. Typically meters are inaccurate on the low side at low flows and on the high side at high flows; this matches our data where the metered volume was high with a high flow. While the volumes differ by 3.7% this is within the accuracy of the meter at this flow rate, this alone could explain the entire difference in the volumes.
2. The topo map is created using points recorded and a network of mathematical triangles is created connecting the points. We are creating a topo network of flat triangles in the interior of a curved hole. In this case the error of the network is both in the horizontal and the vertical because of the shape of the quarry walls. Unless the measured points are nearly touching each other there will be an error in volume. The calculated volume will be slightly smaller than the true volume. This would explain a small portion of the difference in the volumes. Looking at the ratio of perimeter to area we would not expect this to exceed 0.5%.
3. This pond is in an old rock quarry, we do not know if the rock was blasted or is weathered enough that it was scrapped out. It is possible that there are areas of fracture that allow the pond water to flow into fractured rock and when the pond level drops the water drains back into the pond thereby making the volume pumped out larger than the calculated volume of the hole. There is no way to prove or disprove this but it is entirely possible. If this is happening it would explain a small portion of the difference in the volumes.

R-07711

**Conclusion:**

This data shows that the water pumped out of the pond is effectively equal to the volume of the quarry. This means that the pond did not recharge from ground water during the pumping segment of the test. The watershed and rainfall data show that the pond fills and then overflows from runoff from the hill above the pond each winter. We conclude that the water in the pond comes from rainfall runoff and is by therefore surface water.

Additional support for this conclusion is the water level of the pond. Before the dewatering started and the weather was dry, the water level was dropping slowly from leakage and evaporation. After the dewatering was complete and the weather was dry the water level again dropped slowly from minor leakage and evaporation. We believe that the minor leakage is to surface water downstream to Hass Creek. This minor leakage will continue either way because the pond retains approximately 1 acre-foot of water after the pump is shut off.

If ground water equal to the 3.7% error was leaking into the pond over the total pumping time from 9-27 to 10-5 the rate would be 3.4 gallons per minute. After the dewatering was complete this would result in the water level rising 0.03 feet each day. In every case when it is dry out the pond level drops slowly. In addition to the declining water level during dry periods the fact that the water level rises after rain events shows that the pond is collecting and holding the direct rainfall and associated runoff.

There is no evidence that this pond is collecting water from a ground water source.

There is no evidence where the minor leakage is going, ground water or surface water. We believe it is going to surface water because the previous owners trenched the drain pipe through the quarry floor to the closest drainage, trenching through rock is likely to cause fractures in the rock below the trench. The leakage rate of the pond after the dewatering is slightly less than 0.01 feet per day, this translates into approximately 1.2 gallons per minute. This is a very low rate and could easily be leaking through cracks below the outlet pipe trench. Whether this water leaks to the surface or ground water is probably a moot point because the low water leakage will most likely continue after the pond is permitted. The owners will try to stop the leakage at the access but this is higher in the pond where the leakage is faster. The pond will retain approximately 1 acre-foot of water, this much water will not leak out before the winter rains start.

There is an overwhelming amount of direct evidence that this pond collects surface water.

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WATER RESOURCES DEPT  
SALEM, OREGON

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20/30

# DOMAINE SERENE QUARRY POND PUMP TEST DATA 2010

PRE-PUMP TEST EARLY WATER LEVEL MONITORING.

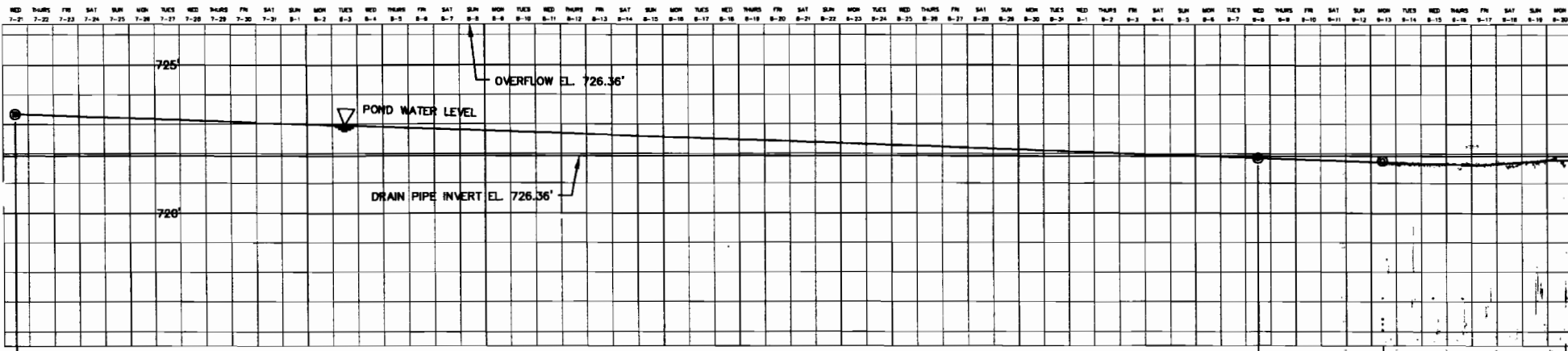
R87791

**LEGEND**

- ⊙ WATER LEVEL WITH SURVEY LEVEL
- ◻ WATER LEVEL FROM STAFF GAGE READING

ON SITE RAIN GAGE 0.3"

0.10" RAIN, McMINNVILLE AIRPORT  
0.57" RAIN, McMINNVILLE AIRPORT  
0.16" RAIN, McMINNVILLE AIRPORT



7/21 TO 9/8, 49 DAYS, WATER LEVEL DROPS 1.49', 0.03'/DAY  
EVAPORATION BUCKET SHOWS 0.02'/DAY

PRE-PUMP

INITIAL LOGGER DATA  
15 MINUTE RECORDING.  
SCATTER IN WATER LEVEL,  
RAIN GAGE DATA FAULTY.



JOB No.: 309-2-054  
REVISED: 11-2-10  
DRAWING NAME: DOMAINE SERENE TOPO V2000

WATER RESOURCES DEPT  
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21/30

# DOMAINE SERENE QUARRY POND PUMP TEST DATA 2010

LOGGER DATA SET TO RECORD EACH MINUTE.

PRE-PUMP, PUMPING AND POST-PUMP DATA

### LEGEND

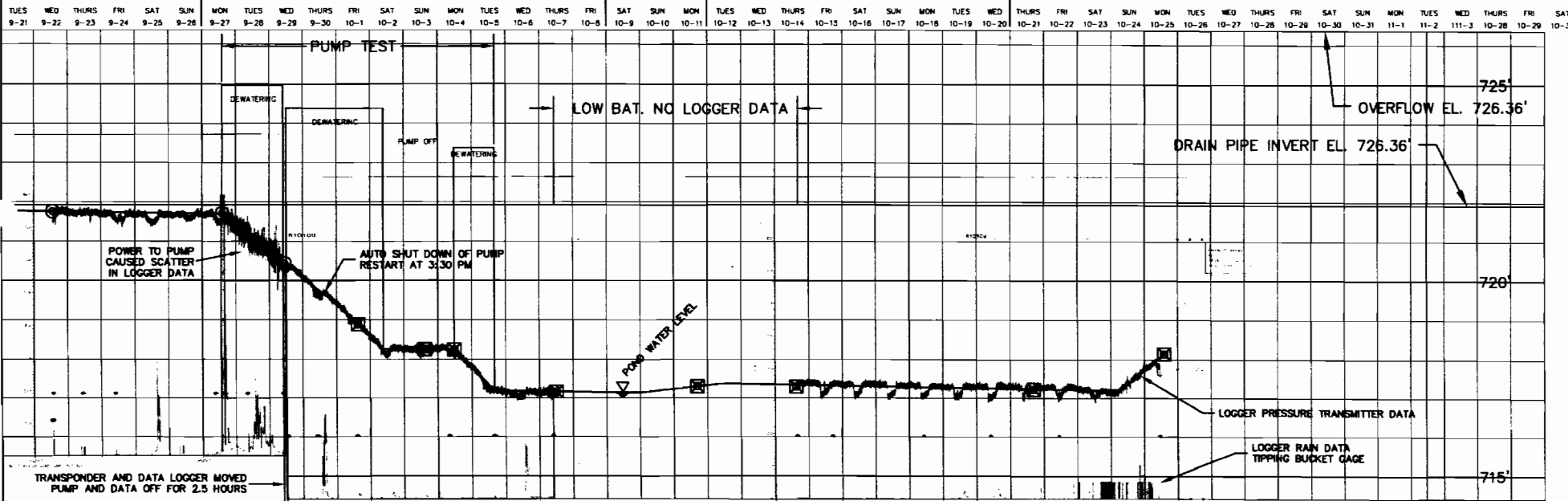
- ⊙ WATER LEVEL WITH SURVEY LEVEL
- ⊠ WATER LEVEL FROM STAFF GAGE READING

### TIPPING BUCKET

24 HOUR RAIN 0.09"  
24 HOUR RAIN 0.01"  
24 HOUR RAIN 0.06"

ON SITE RAIN GAGE 1.3"

ON SITE RAIN GAGE 2.2"



TRANSPONDER AND DATA LOGGER MOVED PUMP AND DATA OFF FOR 2.5 HOURS

**PRE-PUMP**  
5 DAYS LOGGER DATA PRE-PUMP, MINOR SHOWERS, WATER LEVEL DROPS 0.01' PER DAY

**PUMP TEST**  
TOTAL 141.2 HOURS OF PUMPING, 124.73 GPM, 3.24 ACRE- FEET AT METER. WATER LEVEL DROPPED 4.44'

**POST-PUMP**  
2 DAYS LOGGER DATA POST-PUMP, DRY WEATHER, WATER LEVEL DROPS 0.01' PER DAY

**POST-PUMP**  
6 DAYS OF LOGGER DATA, DRY WEATHER, WATER LEVEL DROPS 0.01' PER DAY.

**POST-PUMP**  
24 HOUR RAIN 0.01"  
24 HOUR RAIN 0.02"  
24 HOUR RAIN 0.93"  
24 HOUR RAIN 1.00"  
24 HOUR RAIN 0.24"  
TIPPING BUCKET = 2.2"



JOB No.: 309-2-054  
REVISED: 11-2-10  
DRAWING NAME: DOMAINE SERENE TOPO V2000

SALEM, OREGON  
WATER RESOURCES DEPT

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# DOMAINE SERENE QUARRY POND, MAX VOLUME

LOCATED IN: TOWNSHIP 3 SOUTH, RANGE 3 WEST, SECTION 33, W.M., YAMHILL COUNTY, OREGON.

TBM, TOP OF WEST CORNER OF CONCRETE SLAB. EL. 728.55'

MAP BASED ON: FIELD SURVEY  
VERTICAL DATUM NAVD88  
ELEVATION ESTABLISHED BY GPS

OVERFLOW STAND PIPE TOP EL. 726.39'

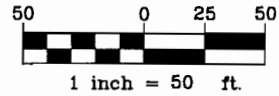
CAPPED OUTLET  
PIPE INVERT 721.95'

OVERFLOW  
PIPE

ELEC.  
PANEL

WATER INTAKE  
AT END OF PIPE.  
TOP OF INTAKE  
EL. 717.59'

MAIN POND



WATER LEVEL AT END OF  
PUMP TEST EL. 717.16'

GRAVEL ROAD PUSHED  
ACROSS QUARRY YEARS AGO



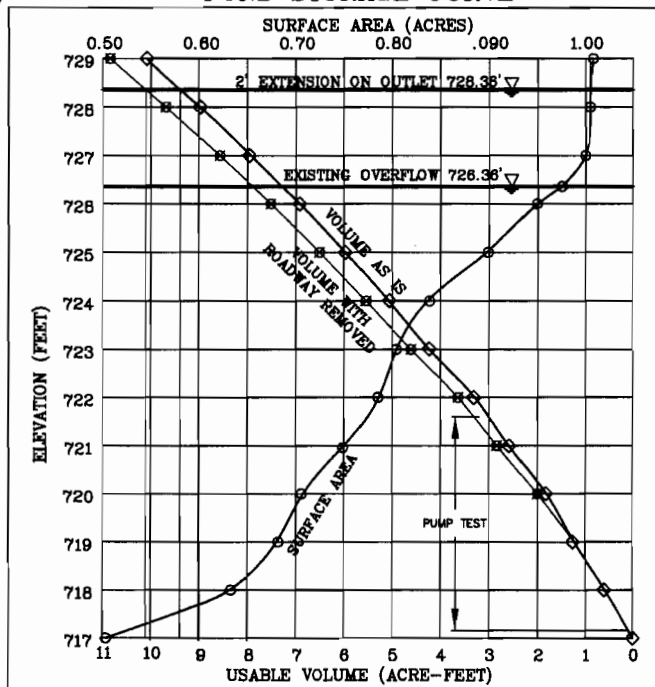
EXPIRES 12/31/13

UPPER POND

CONTOUR INTERVAL 1.0'  
DATA BELOW EL. 715' IS LIMITED,  
CONTOURS BELOW 715' ARE ESTIMATED.

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SALEM, OREGON

POND STORAGE CURVE



JOB No.: 309-2-054  
REVISED: 2-15-12  
DRAWING NAME: D.S. QUARRY POND STORAGE

23/30

R-07791





REPLAT OF PORTIONS OF  
BREYMAN ORCHARDS FOR:

*Hazel E. Timmons Trust*

Location: Sections 33 and 34 T. 3 S., R. 3 W., WM.,  
Yamhill County, OR  
Tax Lot: 3333-300  
Date: 18 May, 2004  
Docket R-01-04

NARRATIVE

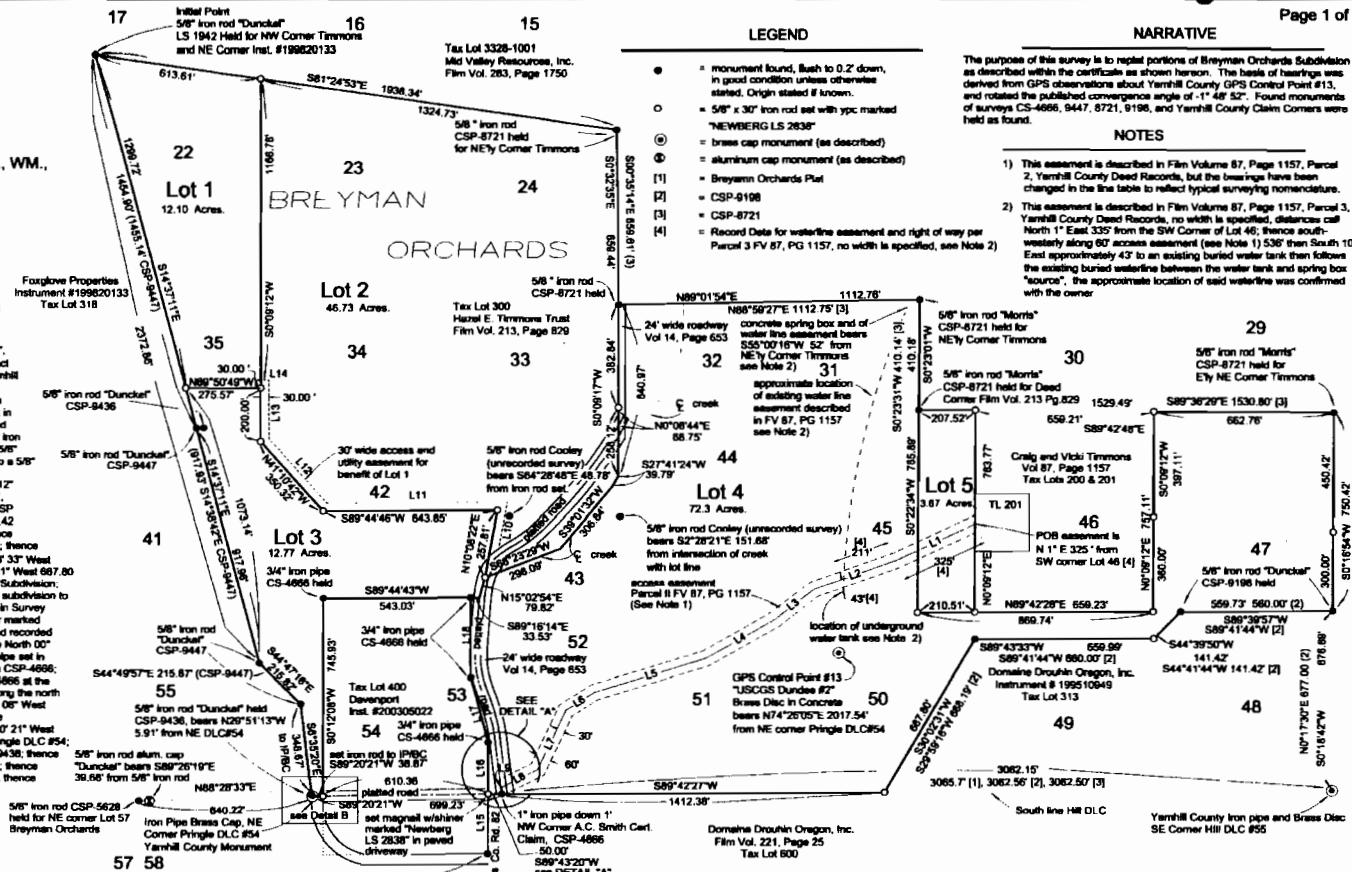
The purpose of this survey is to replat portions of Breyman Orchards Subdivision as described within the certificate as shown hereon. The basis of bearings was derived from GPS observations about Yamhill County GPS Control Point #13, and related the published convergence angle of  $-1^{\circ}48'52''$ . Found monuments of surveys CS-4686, 9447, 8721, 9198, and Yamhill County Claim Corners were held as found.

NOTES

- This assessment is described in Film Volume 87, Page 1157, Parcel 2, Yamhill County Deed Records, but the bearings have been changed in the line table to reflect typical surveying nomenclature.
- This assessment is described in Film Volume 87, Page 1157, Parcel 3, Yamhill County Deed Records, no width is specified, distances call North  $1^{\circ}$  East  $335'$  from the SW Corner of Lot 46; thence south-westerly along 60' access easement (see Note 1)  $536'$  from South  $10'$  East approximately  $43'$  to an existing buried water tank then follows the existing buried easement between the water tank and spring box "source", the approximate location of said waterline was confirmed with the owner.

LEGEND

- monument found, flush to 0.2" down, in good condition unless otherwise stated. Origin stated if known.
- 5/8" x 30" iron rod set with spc marked "NEWBERG LS 2638"
- ⊙ brass cap monument (as described)
- ⊕ aluminum cap monument (as described)
- [1] Breyman Orchards Plat
- [2] CSP-9198
- [3] CSP-8721
- [4] Record Data for waterline easement and right of way per Parcel 3 FV 87, PG 1157, no width is specified, see Note 2)



SURVEYOR'S CERTIFICATE

I, John Newberg, do hereby certify that I have correctly surveyed and marked with proper monuments the land shown hereon and the boundary of which is described as follows:

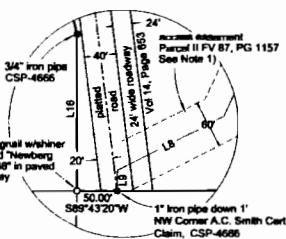
Beginning at a 5/8" iron rod with yellow plastic cap marked "Duncuar LS 1942", said iron rod being set in Survey CSP-9447 at the northeast corner of that tract of land conveyed to Laurent-Farmer recorded in Instrument # 199820133, Yamhill County Deed Records, thence South  $81^{\circ}24'53''$  East  $1836.34'$  feet along the south boundary of that tract of land conveyed to Mid-Valley Resources in Film Volume 283, Page 1750, Yamhill County Deed Records, to a 5/8" iron rod set in Survey CSP-8721, thence South  $00^{\circ}32'35''$  East  $659.44'$  feet to a 5/8" iron rod set in Survey CSP-8721, thence North  $89^{\circ}01'54''$  East  $1112.78'$  feet to a 5/8" iron rod set in Survey CSP-8721, thence South  $00^{\circ}22'01''$  East  $410.18'$  feet to a 5/8" iron rod set in Survey CSP-8721, thence South  $89^{\circ}42'48''$  East  $207.52'$  feet to a 5/8" iron rod set, thence South  $00^{\circ}09'12''$  West  $783.77'$  feet to a 5/8" iron rod set, thence North  $89^{\circ}42'28''$  East  $652.23'$  feet to an iron rod, thence North  $07^{\circ}09'12''$  East  $757.11'$  feet to an iron rod set for the Northeast corner of Film Volume 87, Page 1157, thence South  $89^{\circ}42'48''$  East  $662.78'$  feet to an iron rod set in CSP-8721 for the Northwest corner of Timmons, thence South  $0^{\circ}16'54''$  West  $750.42'$  feet to an iron rod set in CSP-9198 at the Southeast corner of Timmons, thence South  $89^{\circ}30'51''$  West  $659.99'$  feet to a 5/8" iron rod set in Survey CSP-9198, thence South  $30^{\circ}02'31''$  West  $687.80'$  feet to a set 5/8" iron rod on the south boundary of Lot 50 Breyman Orchards Subdivision, thence North  $89^{\circ}42'21''$  West  $1412.38'$  feet to a 5/8" iron rod set in Survey CSP-9436, thence North  $06^{\circ}35'20''$  West  $346.87'$  feet to a 5/8" iron rod set in Survey CSP-9447, thence North  $44^{\circ}47'18''$  West  $215.82'$  feet to a 5/8" iron rod set in Survey CSP-9447, thence North  $14^{\circ}37'11''$  West  $2372.86'$  feet to the POINT OF BEGINNING.

R-07791

*John G. Newberg*  
John G. Newberg, PL 5 2638

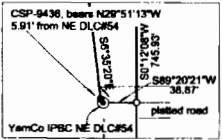
DETAIL "A"

scale 1" = 100'



DETAIL "B"

scale 1" = 100'



Line Table for 60' wide assessment to benefit land described in FV 87, PG 1157

NUM	DISTANCE	BEARING
L1	325.00'	S64°39'59"W
L2	319.50'	S70°00'00"W
L3	181.75'	S51°50'00"W
L4	295.50'	S80°11'00"W
L5	430.67'	S72°40'00"W
L6	126.00'	S57°10'00"W
L7	245.50'	S25°00'00"W
L8	148.10'	S62°51'33"W
L9	26.00'	S1°00'00"W

Line Table for 30' wide assessment (Easterly and Northerly Margin) to benefit Lot 1

NUM	DISTANCE	BEARING
L10	178.11'	N10°06'22"E
L11	686.15'	S89°44'46"W
L12	325.50'	N41°10'42"W
L13	218.68'	N0°09'12"E
L14	30.00'	N89°50'46"W

Line Table for east boundary "Davenport" as located and record deed distances

NUM	DISTANCE	BEARING
L15 meas. record	227.00'	N0°49'28"E
L16 meas. record	227.41'	N01°05"E
L17 meas. record	198.00'	N0°15'03"E
L18 meas. record	196.00'	N0°28"E
L19 meas. record	251.97'	N14°39'09"W
L20 meas. record	252.25'	N14°27"W
L21 meas. record	301.22'	N0°20'17"W
L22 meas. record	301.01'	N0°02"W



REGISTERED PROFESSIONAL LAND SURVEYOR  
*John G. Newberg*  
OREGON  
JOHN G. NEWBERG  
2638  
Renewable 31 December 2004

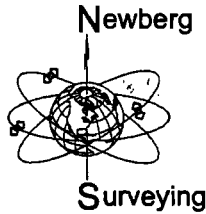
Newberg Surveying, Inc.  
1205 NE Evans  
McMinnville, OR 97128  
(503)-474-4742 (871)-237-1956 Cell  
(503)-474-3752 Fax newberg@vickinc.com

This is an exact copy of the Original Plat.

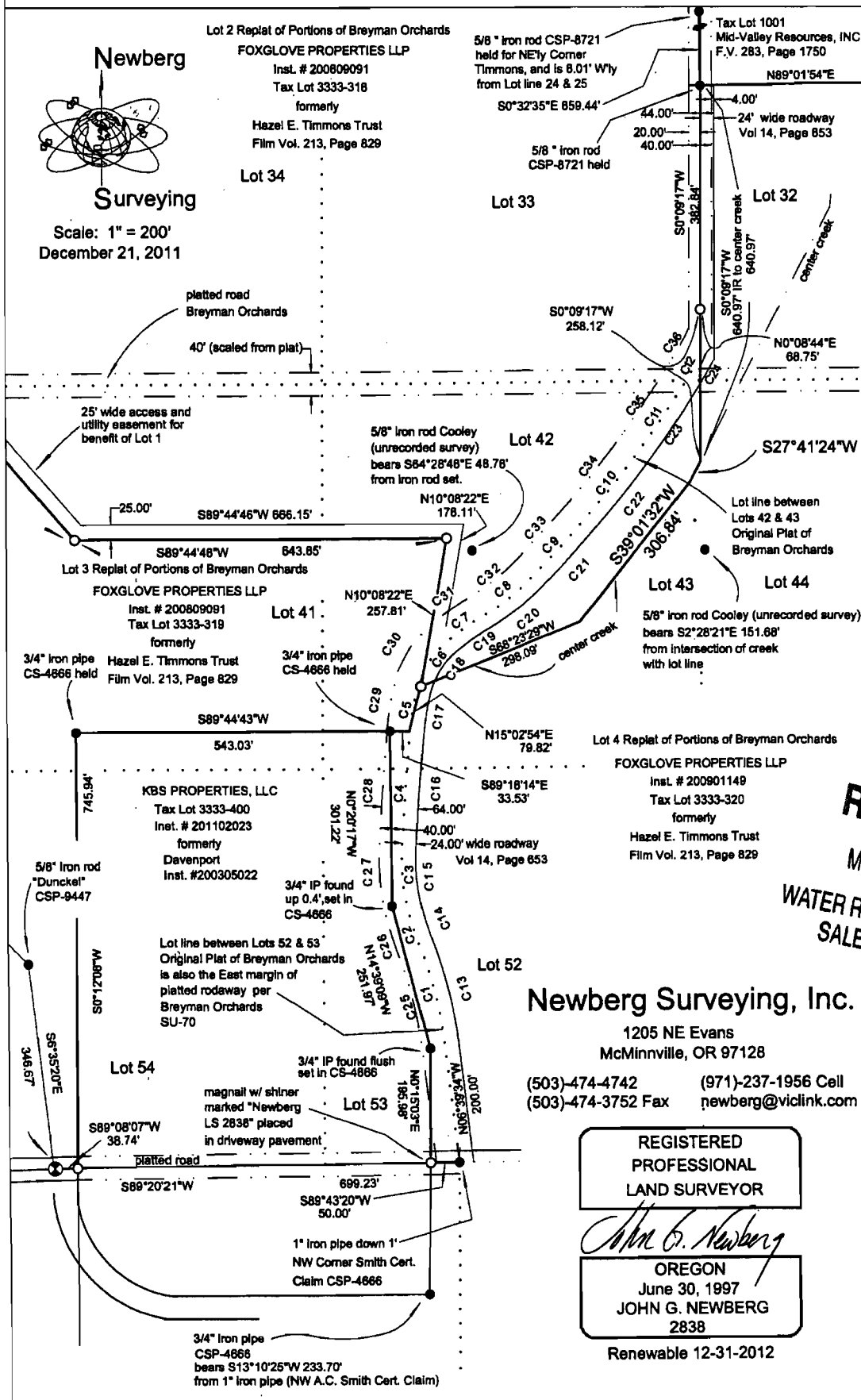
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25/30

Exhibit "A" of Affidavit of Correction to:  
 Replat of Portion of Breyman Orchards



Scale: 1" = 200'  
 December 21, 2011



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**Newberg Surveying, Inc.**

1205 NE Evans  
 McMinnville, OR 97128

(503)-474-4742 (971)-237-1956 Cell  
 (503)-474-3752 Fax newberg@vclink.com

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR

*John G. Newberg*  
 OREGON  
 June 30, 1997  
 JOHN G. NEWBERG  
 2838

Renewable 12-31-2012

R-8771

26/30

Exhibit "A" of Affidavit of Correction to:  
 Replat of Portion of Breyman Orchards

Platted Road per Breyman Orchards and Roadway per Vol. 14 Page 653

NUM	DELTA	ARC	RADIUS	BEARING	DISTANCE
C1	14°00'00"	175.00'	716.20'	N13°39'34"W	174.56'
C2	4°00'00"	50.00'	716.20'	S18°39'34"E	49.99'
C3	20°00'00"	125.00'	358.10'	S6°39'34"E	124.37'
C4	2°00'00"	200.00'	5729.58'	S4°20'26"W	199.99'
C5	9°00'00"	75.00'	477.46'	S9°50'26"W	74.92'
C6	36°00'04"	100.00'	159.15'	S32°20'28"W	98.36'
C7	9°00'00"	75.00'	477.46'	S54°50'30"W	74.92'
C8	15°00'01"	125.00'	477.46'	N51°50'30"E	124.64'
C9	2°30'00"	125.00'	2864.79'	N43°05'30"E	124.99'
C10	5°30'00"	150.00'	1562.61'	N39°05'30"E	149.94'
C11	4°30'00"	150.00'	1909.86'	N34°05'30"E	149.96'
C12	2°20'39"	39.07'	954.93'	N30°40'10"E	39.07'
C13	14°00'00"	180.86'	740.20'	N13°39'34"W	180.41'
C14	4°00'00"	48.32'	692.20'	S18°39'34"E	48.31'
C15	20°00'00"	116.62'	334.10'	S6°39'34"E	116.03'
C16	2°00'00"	199.16'	5705.58'	S4°20'26"W	199.15'
C17	9°00'00"	71.23'	453.46'	S9°50'26"W	71.16'
C18	36°00'04"	84.92'	135.15'	S32°20'28"W	83.53'
C19	9°00'00"	71.23'	453.46'	S54°50'30"W	71.16'
C20	15°00'01"	131.28'	501.46'	N51°50'30"E	130.91'
C21	2°30'00"	126.05'	2888.79'	N43°05'30"E	126.04'
C22	5°30'00"	152.30'	1586.61'	N39°05'30"E	152.25'
C23	4°30'00"	151.88'	1933.86'	N34°05'30"E	151.85'
C24	2°42'49"	46.36'	978.93'	N30°29'05"E	46.36'
C25	14°00'00"	165.23'	676.20'	N13°39'34"W	164.82'
C26	4°00'00"	52.79'	756.20'	S18°39'34"E	52.78'
C27	20°00'00"	138.96'	398.10'	S6°39'34"E	138.26'
C28	2°00'00"	201.40'	5769.58'	S4°20'26"W	201.39'
C29	9°00'00"	81.28'	517.46'	S9°50'26"W	81.20'
C30	36°00'04"	125.13'	199.15'	S32°20'28"W	123.09'
C31	9°00'00"	81.28'	517.46'	S54°50'30"W	81.20'
C32	15°00'01"	114.53'	437.46'	N51°50'30"E	114.20'
C33	2°30'00"	123.25'	2824.79'	N43°05'30"E	123.24'
C34	5°30'00"	146.16'	1522.61'	N39°05'30"E	146.10'
C35	4°30'00"	146.86'	1869.86'	N34°05'30"E	146.82'
C36	4°18'18"	68.74'	914.93'	N29°41'21"E	68.73'

Platted Road records per Breyman Orchards

NUM	DELTA	ARC
C1	14°	175'
C2	4°	50'
C3	20°	125'
C4	2°	200'
C5	9°	75'
C6	36°	100'
C7	9°	75'
C8	15°	125'
C9	2°30'	125'
C10	5°30'	150'
C11	4°30'	150'

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R-87791

NARRATIVE

The purpose of this Affidavit of Correction is meant to correct the location shown of the original platted road of Breyman Orchards (14 July, 1909) in "Detail A" on my Replat of Portions of Breyman Orchards dated 18 May, 2004, and to show the record bearing and distances of the boundary between Lots 42 & 43 and Lots 52 & 53 which is also the easterly boundary of a platted road not shown on my replat due to clutter and to clarify any confusion between the easterly boundary of land shown as Tax Lot 400 described in Inst. # 200305022 and established in survey CS-4666 with that of the record plat courses and distances shown on the original Breyman Orchards Plat. I am recording this affidavit of correction in accordance with ORS 92.170, (a)(b)(c) and stating that this affidavit of correction shall not be construed to make changes in courses or distances for the purpose of redesigning lot configurations shown on my replat. The record courses and distances shown on the original Breyman Orchards plat running from Station 0+00 (beginning at the Southwest corner of Lot 52) to Station 16+38.7 are along the lot lines between Lots 42&43 and Lots 52&53 which is the easterly edge of a 40 foot wide (width scaled from the original plat) platted road and is not centered as shown in Detail A on my Replat of Portions of Breyman Orchards. ORS 92.185 (5) States that a replat shall not serve to vacate any public street or road and my Replat of Portions of Breyman Orchards or this Affidavit of Correction shall not be construed as vacating any such public street or road. This affidavit of correction does show the location of platted roads of Breyman Orchards Subdivision which were not shown on the original replat due to clutter, and corrects the typographical error in labeling Lots 40, 41 and 42.

LEGEND

- = monument found, flush to 0.2' down, in good condition unless otherwise stated. Origin stated if known.
- = 5/8" x 30" iron rod set with ypc marked "NEWBERG LS 2838"
- ⊙ = brass cap monument (as described)
- ⊗ = aluminum cap monument (as described)
- (1) = Breyman Orchards Plat
- (2) = CSP-9198
- (3) = CSP-8721
- = lot line and platted road Breyman Orchards

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**SCHEDULE B**

LOTS 1, 2, 3  
TAX LOTS 300, 318, 319

File No. 3626001557-TTPOR36  
Policy No. 3626001557

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Facts, rights, interests or claims which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
5. Any lien for services, labor or material heretofore or hereafter furnished, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, imposed by law and not shown by the Public Records.

**SPECIFIC ITEMS AND EXCEPTIONS:**

6. Rights of the public in and to that portion lying within streets, roads and highways.
7. Roadway as disclosed by Deed, including the terms and provisions thereof,
 

From:	Roy S. Richardson and Florence Y. Richardson, husband and wife
To:	Earl Namitz and Maggie I. Namitz, husband and wife
Recorded Date:	June 3, 1936
Recording Number:	Book 111, Page 349, Deed Records
For:	Roadway, being 24 feet in width
8. Easement, as shown on recorded plat.
 

For:	Access and utilities, being 30 feet in width
Affects:	Over Lot 2 for the benefit of Lot 1

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WATER RESOURCES DEPT  
SALEM, OREGON

Oregon Title Insurance Rating Organization (OTIRO)  
OTIRO No. PO-04  
American Land Title Association  
ALTA Owner's Policy (6-17-2006)

PC-8771

29/30

GRANTOR'S NAME:  
David B. Kahn

TZ 300  
318  
319

GRANTEE'S NAME:  
Foxglove Properties, LLP, a Minnesota Limited  
Liability Partnership

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MAR 28 2012

SEND TAX STATEMENTS TO:  
Foxglove Properties, LLP, a Minnesota Limited  
Liability Partnership  
6701 Evenstad Drive  
Maple Grove, MN 55369

WATER RESOURCES DEPT  
SALEM, OREGON

OFFICIAL YAMHILL COUNTY RECORDS  
JAN COLEMAN, COUNTY CLERK

AFTER RECORDING RETURN TO:  
Foxglove Properties, LLP, a Minnesota Limited  
Liability Partnership  
6701 Evenstad Drive  
Maple Grove, MN 55369



\$31.00

200809091

4:03:49 PM 5/27/2008

DMR-DDMR Cnt=1 Stn=3 SUSIE  
\$10.00 \$10.00 \$11.00

Escrow No: 3626001557-TTPOR36

AMERICAN GUARANTEE AND SURETY COMPANY

**STATUTORY WARRANTY DEED**

David B. Kahn, Grantor, conveys and warrants to

Foxglove Properties, LLP, a Minnesota Limited Liability Partnership, a Minnesota Limited Liability Partnership, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Yamhill, State of Oregon:

Lots 1, 2 and 3, REPLAT OF PORTIONS OF BREYMAN ORCHARDS, County of Yamhill, State of Oregon.

**Subject to and excepting:**

Roadway, as set forth in Deed recorded June 3, 1936 in Book 111, Page 349; Easement as shown on the recorded plat.

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

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$1,600,000.00. (See ORS 93.030)

DATED: May 27, 2008

David B. Kahn by Ed. N. [Signature] 30/30  
David B. Kahn His Att in fact

R-87791