

# Jordan Engineering

Structural-Civil-Geotech

460 Jordan Lane  
Roseburg, OR 97471  
541-673-1931

Water Resources Department  
725 Summer St. NE, Suite A  
Salem, OR 97301

## Two Applications:

1. Stored
2. Use of Stored

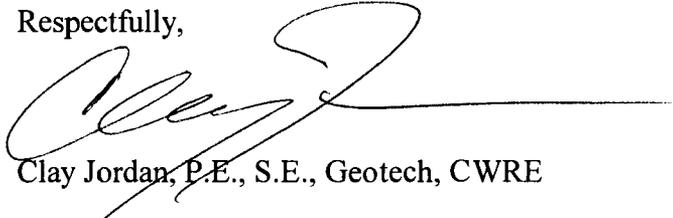
March 9, 2015

Sir:

Inclosed are two applications with maps in the name of Bussmann Cranberries LLC. Also inclosed are two checks, ck-6704 in the sum of \$3,800 and ck-6702 in the sum of \$1,623 made out to the Department.

If there are any questions please officially contact the applicant with a copy to me.

Respectfully,



Clay Jordan, P.E., S.E., Geotech, CWRE

cc: Mr. Bussmann

Mr. Norm Daft

file: Bussmann 2-Applications wrd-cl.wpd

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R-8806L

## Appendix A

Developing your water right often entails grading trenching or other types of construction within waterways, riparian areas, and wetlands. Permits from local, state or federal agencies may be required. A good first step is to check with your local city or county planning office. The following information was provided by the Oregon Division of State Lands.

### **Activities in Wetlands and Waterways are Regulated by:**

- The Division of State Lands (DSL) under the State Removal-Fill Law
- The U.S. Army Corps of Engineers (Corps) under the Federal Clean Water Act and Rivers and Harbors Act
- The State Department of Forestry under the Forest Practices Act
- The U.S. Natural Resource Conservation Service (NRCS) under the Food, Agriculture, Conservation and Trade Act
- Some City and County land use ordinances

### **What Areas are Regulated?**

- Rivers streams and most creeks
- Estuaries and tidal marshes
- Lakes and some ponds
- Permanent and seasonal wetlands
- Regulations apply to all lands, public or private
- A wetland does not have to be mapped by the state or otherwise 'designated' to fall under the regulations
- If you are uncertain if there are regulated wetlands on your property, contact DSL for assistance.

### **What Activities are Regulated?**

- Placement of fill material
- Alteration of stream bank or stream course
- Ditching and draining
- Plowing/disking non-farmed wetlands
- Excavation or dredging of material
- In-water construction (may also require a lease from DSL)
- For some activities, joint application forms can be obtained from DSL or the Corps

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### **What Activities are Exempt**

- Some routine maintenance activities
- Established, ongoing agricultural activities and grazing
- Some minor projects involving small amounts of fill or removal

### **How are Laws Enforced?**

The best enforcement is to prevent illegal wetland alterations through information and education. However, when violations do occur, a variety of enforcement tools may be used, including restoration orders, fines of up to \$10,000 per day (DSL), civil and/or criminal charges.

R-8862



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

RECEIVED BY OWRD Application for a Permit to

MAR 11 2015

# Store Water in a Reservoir

(Alternate Review)

SALEM, OR

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 form 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: BUSSMANN CRANBERRIES, LLC  
First Last

Mailing Address: P.O. Box 312

SIXES OR 97476  
City State Zip

Phone: 541 348-2405  
Home Work Other

Fax: \_\_\_\_\_ E-Mail Address\*: george@bussmanncranberries.com

\* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

**2. AGENT INFORMATION**

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

Agent: George Bussmann  
First Last

Mailing Address: P.O. Box 312

Sixes OR 97476  
City State Zip

Phone: 541 348-2405  
Home Work Other

Fax: \_\_\_\_\_ E-Mail Address\*: george@bussmanncranberries.com

\* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

**3. LOCATION AND SOURCE**

A. Reservoir Name: Bussmann Reservoir - 2

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: bog runoff Tributary to: Sixes River  
and reservoir R-12497

C. County in which diversion occurs: Curry

|                         |                    |                  |            |
|-------------------------|--------------------|------------------|------------|
| App. No. <u>R-88002</u> | For Department Use | Permit No. _____ | Date _____ |
|-------------------------|--------------------|------------------|------------|



**D. Reservoir Location**

| Township<br>(N or S) | Range<br>(E or W) | Section | quarter/quarter | tax lot number |
|----------------------|-------------------|---------|-----------------|----------------|
| 31S                  | 15W               | 32      | SE SE           | 2700           |

**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: ----- 100

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.

MULTIPURPOSE

**5. PROPERTY OWNERSHIP**

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Please provide a copy of the recorded deed(s).

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

SALEM, OR

**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

**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:

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**6. ENVIRONMENTAL IMPACT**

- A. Channel:** Is the reservoir:  in-stream or  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? \_\_\_\_\_ years.
- 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. WITHIN A DISTRICT**

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

|                          |         |     |
|--------------------------|---------|-----|
| Irrigation District Name | Address |     |
| City                     | State   | Zip |

**8. 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.

The reservoir will be an excavation. Sides will be as vertical as possible. There is no live flow entering the reservoir. The reservoir will be filled runoff, mostly from bog runoff .

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SALEM, OR

R-0002

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).

NA

**9. 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

2/2/15  
\_\_\_\_\_  
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.

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R-00002

# 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: BUSSMANN CRANBERRIES, LLC

1) Does the proposed reservoir have the potential to injure existing water rights?       NO       YES

Explain: *Proposed source is run-off and not a diversion from a creek or stream*

2) Can conditions be applied to mitigate the potential injury to existing water rights?       NO       YES

If YES, which conditions are recommended: *N/A, no injury*

3) Did you meet with staff from another agency to discuss this application?       NO       YES

Who:                                      Agency:                                      Date:  
Who:                                      Agency:                                      Date:

Watermaster signature: *Sharon Hagen*                                      Date: *2/13/2015*

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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MAR 11 2015      5  
SALEM, OR

*R-98062*

# ODFW Alternate Reservoir Application Review Sheet

**This portion to be completed by the applicant.**

Applicant Name/Address/Phone/Email: BUSSMANN CRANBERRIES, LLC, P.O. BOX 312 SIXES, OR 97476  
541 348-2405 george@bussmanncranberries.com

Reservoir Name: Reservoir - 2 Source: Bog runoff & R-12497 Volume (AF): 100

Twp Rng Sec QQ: 31S 15W Sec 32 SESE Basin Name: Sixes  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.

**This portion 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?.....  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 project pose any other significant detrimental impact to an existing fishery resource locally or downstream?.....  YES  NO  
 Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

Any diversion or appropriation of <sup>Live Flow</sup> water for storage during the period May 1 through October 31 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.

Oregon coast coho (threatened) are present downstream in Summers/Madden/Sixes. Appropriation of live flow May 1 -

October 31 would impact summer rearing habitat.

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)

No appropriation of live flow from Summers/Madden creek  
May 1 - October 31. Storage of water from R-12497 and  
bog run-off OK year round.

658 - Staff gage.

ODFW Signature: Tedd Confer

Print Name: Tedd Confer

ODFW Title: District Fish Biologist

Date: 2-2-15

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

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Revised 10/4/12

MAR 11 2015

SALEM, OR

R-88062

# 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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SALEM, OR

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R-88062

# 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

Applicant: BUSSMANN CRANBERRIES, LLC  
First Last

Mailing Address: P.O. BOX 312

SIXES OR 97476 Daytime Phone: 541 348-2405  
City State Zip

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. 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: |
|----------|-------|---------|--------------------|-----------|---|--|--|--|--------------------|
| 31S      | 15W   | 32      | SESE               | 2700      |   | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used | Cranberries        |
| 32S      | 15W   | 4       | NWNW<br>SWNW       | 301, 302  |   | <input type="checkbox"/> Diverted            | <input checked="" type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used | Cranberries        |
| 32S      | 15W   | 5       | E1/2 NE1/4<br>NESE | 700, 1200 |   | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used | Cranberries        |
|          |       |         |                    |           |   | <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, and/or used or developed:

CURRY

## B. Description of Proposed Use

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

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

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

Estimated quantity of water needed: 143   
 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 Storage & Cranberry Operations

Briefly describe:

We plan on building an excavated reservoir filled by bog runoff. It is estimated that it will store about 100 Acre-Feet (AF) of water. We plan to use the stored water for primary and supplemental cranberry operations. In addition, we are applying to use 43 AF of water from an existing reservoir for supplemental cranberry operations.

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

See bottom of Page 3. →

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SALEM, OR

R-88062

203

# 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 the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 10203.051 3061
- Land uses to be served by the 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<br>(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<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><input type="checkbox"/> Not Being Pursued |
|   |  | <input type="checkbox"/> Obtained<br><input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued<br><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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SALEM, OR

Name: Nancy Chester Title: Planner  
 Signature: Nancy Chester Phone: 501 247-3284 Date: 2/25/15  
 Government Entity: \_\_\_\_\_

**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: \_\_\_\_\_

R-88662

♥ 3083

**PIERCEALL Jeffrey D**

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**From:** KCJ <kcjengineer@zoho.com>  
**Sent:** Tuesday, March 17, 2015 8:49 AM  
**To:** PIERCEALL Jeffrey D; Norm Daft  
**Subject:** Bussmann  
**Attachments:** BusCran Additonal 40.pdf; BusCran Operating Agreement.pdf; BusCran Warranty Deed.pdf; George Bussmann 1.pdf; Jim Bussmann 2.pdf; Section 2.pdf

Jeffrey,  
Sorry about the delay, just got the info yesterday. If there are any additional information let us know. I will try to email all six (6) attachments in one email. Or you may get several emails to get all 6.

Clay

**RECEIVED**

MAR 17 2015

WATER RESOURCES DEPT  
SALEM, OREGON

**WARRANTY DEED (INDIVIDUAL)**

**WHITE CLOUD FORESTS, a general partnership**, herein called grantor, convey(s) to **GEORGE P. BUSSMANN and JAMES A. BUSSMANN, doing business as BUSSMANN CRANBERRY COMPANY** all that real property situated in the County of CURRY, State of Oregon, described as:

See Exhibit A attached hereto and made a part hereof.

and covenant(s) that grantor is the owner of the above described property free of all encumbrances except

As Described in Exhibit "A" Attached

and will warrant and defend the same against all persons who may lawfully claim the same, except as shown above.

The true and actual consideration for this transfer is \$145,000.00.

Dated this \_\_\_\_ day of January, 2003

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

WHITE CLOUD FORESTS, a general partnership

By: Warren S. Halsey, Partner/Agent

By: Eugene F. Forsburg, Partner/Agent

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

January \_\_\_\_, 2003 personally appeared Warren S. Halsey and Eugene F. Forsburg, as Partners/Agents of WHITE CLOUD FORESTS, a general partnership.

Before me:

Notary Public for Oregon

My commission expires: \_\_\_\_\_

The dollar amount should include cash plus all encumbrances existing against the property to which the property remains subject or which the purchaser agrees to pay or assume.

**WARRANTY DEED (INDIVIDUAL)**

WHITE CLOUD FORESTS , a general partnership  
TO  
George P. Bussmann and James A. Bussmann, doing business as BUSSMANN CRANBERRY COMPANY

After Recording Return to:  
Curry County Title, Inc.  
P.O. Box 672, 29820 Ellensburg Ave.  
Gold Beach, OR 97444

Send Tax Statements To:  
BUSSMANN CRANBERRY COMPANY  
C/O Ernie Bussmann, Agent  
P.O. Box 312  
Sixes, OR 97476

**RECEIVED**

MAR 17 2015

WATER RESOURCES DEPT  
SALEM, OREGON

**READ, ACCEPTED AND APPROVED BY:**  
\_\_\_\_\_  
\_\_\_\_\_  
**DATED** \_\_\_\_\_

R-08067

Exhibit A

PARCEL I:

The Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section Thirty-two (32), Township Thirty-one (31) South, Range Fifteen (15) West, Willamette Meridian, in the County of Curry and State of Oregon.

ALSO beginning at an iron rod marking the Northeast corner of a strip of land 50 feet in width being described in BR: 93 Page: 601, Curry County Records, said point being located South 89° 39' 35" West, 1247.21 feet from the East Quarter (E1/4) corner Section 32, Township 31 South, Range 15 West of the Willamette Meridian, Curry County, Oregon:

thence South 00° 27' 29" East 1312.49 feet along the East line of said 50' strip to an iron rod marking the Southeast corner of said 50' strip;

thence North 89° 46' 13" East along the East West center line of the Southeast Quarter (1/4) of Section 32, 59.5 feet to an existing fence line;

thence North 00° 11' 46" West, 1312.60 feet along said existing fence line to a point on the East West center line of said Section 32, which point bears North 89° 39' 35" East, 65.5 feet from the point of beginning;

thence South 89° 39' 35" West, 65.5 feet to the point of beginning.

EXCEPTING that part lying within public roads and highways.

PARCEL II:

A strip of land beginning at the Northwest corner, of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section Thirty-two (32), Township Thirty-one (31) South, Range Fifteen (15) West, Willamette Meridian, Curry County, Oregon, being the Northwest corner of that tract of land deeded to Margaret M. Meyers, recorded June 13, 1977 in BR: 52 Page 316.

thence South to a point being the most southwesterly corner of that tract of land in deed to Margaret M. Meyers, a distance of 1,320 feet, more or less;

thence East 50 feet along the Southern most boundary to a point;

thence North parallel to said westerly boundary to a point 50 feet East of the point of beginning;

thence westerly along said northerly boundary to the point of beginning.

**RECEIVED**

MAR 17 2015

WATER RESOURCES DEPT  
SALEM, OREGON

Exhibit A

PARCEL I:

The Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section Thirty-two (32), Township Thirty-one (31) South, Range Fifteen (15) West, Willamette Meridian, in the County of Curry and State of Oregon.

ALSO beginning at an iron rod marking the Northeast corner of a strip of land 50 feet in width being described in BR: 93 Page: 601, Curry County Records, said point being located South 89° 39' 35" West, 1247.21 feet from the East Quarter (E¼) corner Section 32, Township 31 South, Range 15 West of the Willamette Meridian, Curry County, Oregon:

thence South 00° 27' 29" East 1312.49 feet along the East line of said 50' strip to an iron rod marking the Southeast corner of said 50' strip;

thence North 89° 46' 13" East along the East West center line of the Southeast Quarter (¼) of Section 32, 59.5 feet to an existing fence line;

thence North 00° 11' 46" West, 1312.60 feet along said existing fence line to a point on the East West center line of said Section 32, which point bears North 89° 39' 35" East, 65.5 feet from the point of beginning;

thence South 89° 39' 35" West, 65.5 feet to the point of beginning.

EXCEPTING that part lying within public roads and highways.

PARCEL II:

A strip of land beginning at the Northwest corner, of the Northeast Quarter (NE1/4) of the Southeast Quarter (SE1/4) of Section Thirty-two (32), Township Thirty-one (31) South, Range Fifteen (15) West, Willamette Meridian, Curry County, Oregon, being the Northwest corner of that tract of land deeded to Margaret M. Meyers, recorded June 13, 1977 in BR: 52 Page 316.

thence South to a point being the most southwesterly corner of that tract of land in deed to Margaret M. Meyers, a distance of 1,320 feet, more or less;

thence East 50 feet along the Southern most boundary to a point;

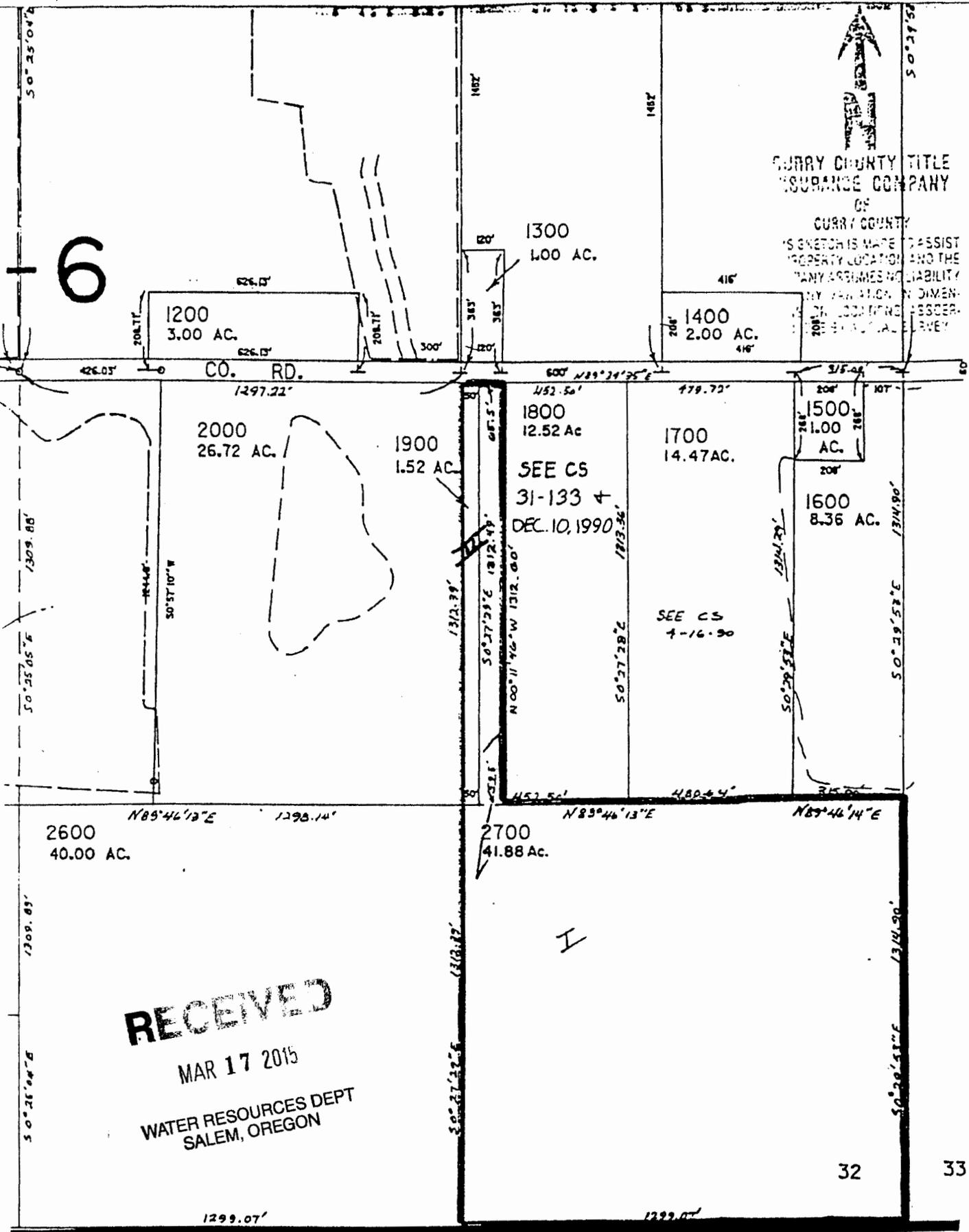
thence North parallel to said westerly boundary to a point 50 feet East of the point of beginning;

thence westerly along said northerly boundary to the point of beginning.

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CURRY COUNTY TITLE  
INSURANCE COMPANY  
OF  
CURRY COUNTY  
THIS SKETCH IS MADE TO ASSIST  
PROPERTY LOCATION AND THE  
DRAWN MAN ASSUMES NO LIABILITY  
FOR ANY ERRORS OR OMISSIONS  
IN THIS LOCATION OF BOUNDARIES  
OR FOR THE QUALITY OF THE SURVEY

SEE MAP 31 15 33

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MAP 32 15

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**OPERATING AGREEMENT OF  
Bussmann Cranberries LLC  
An Oregon Limited Liability Company**

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THIS AGREEMENT is made and entered into this \_\_\_\_\_ day \_\_\_\_\_, 2004, by and between JAMES A. BUSSMANN, PETER DAVID BUSSMANN, GEORGE P. BUSSMANN, SARA L. STRAIN, ELIZABETH L. POTTER, JENNIFER L. BUSSMANN and MARY L. KISTNER, hereinafter referred to as "Members."

**RECITAL:**

WHEREAS, the parties hereto have formed a Limited Liability Company under the laws of the State of Oregon and further desire to create a written Operating Agreement for such Limited Liability Company.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein, the parties hereto agree as follows:

**ARTICLE I**

Formation and Organization

1.1 Name. The name of the Limited Liability Company which is the subject of this Agreement shall be Bussmann Cranberries LLC (hereinafter referred to as the "LLC").

1.2 Articles of Organization. Articles of Organization for the LLC were filed with the office of the Oregon Secretary of State on September 17, 2003.

1.3 Duration. The duration of the LLC shall be perpetual or until the same shall be dissolved in accordance with the terms and provisions of this Agreement.

1.4 Principal Place of Business. The initial principal office of the LLC shall be at 92880 Airport Road, Sixes, Oregon. The LLC's managers may at any time relocate the LLC's principal office or establish additional offices at such time or times as the LLC's managers shall determine.

1.5 Registered Office and Registered Agent. The LLC's initial registered agent shall be George Bussmann and the address of its initial registered office shall be 92969 Childers Road, Sixes, Oregon. The LLC's managers may at any time change the registered agent and/or registered office of the LLC.

1.6 Nature of Business. The business of the LLC shall involve the development of cranberry bogs, the growing of cranberries and all other business related thereto. This specification as to the business of the LLC shall not be deemed a limitation upon the

R-88062

business authorized for the LLC to conduct. The LLC shall be entitled to engage in any lawful business authorized for Limited Liability Companies under the laws of the State of Oregon. The LLC shall have the power and authority to do all things necessary or convenient to accomplish its purposes and operate its business as allowed by the laws of the State of Oregon.

1.7 Title to Property. All property conveyed to the LLC shall be owned by the LLC as an entity and no Member or manager shall have any ownership interest in such property in the Member's or manager's individual name, and each Member's interest in the LLC shall be personal property for all purposes.

1.8 Payment of Individual Obligations. The LLC's credit and assets shall be used solely for the benefit of the LLC, and no asset of the LLC shall be transferred or encumbered for or in payment of an individual obligation of any Member or manager unless agreed to by all Members of the LLC.

1.9 Banking. The LLC shall maintain checking and savings accounts at such bank or banks as the managers of the LLC may from time to time decide. All funds shall be deposited in the name of the LLC and may be withdrawn upon the signature of any manager.

## ARTICLE 2

### Members, Contributions, and Interests

2.1 Names and Addresses. The names and addresses of the initial Members of the LLC are:

James A. Bussmann  
P.O. Box 211  
Sixes, Oregon 97476

Peter David Bussmann  
P.O. Box 271  
Sixes, Oregon 97476

Sara L. Strain  
P.O. Box 1901  
Bandon, Oregon 97411

Elizabeth L. Potter  
P.O. Box 1117  
Langlois, Oregon 97450

Jennifer L. Bussmann  
87720 Bill Creek Road  
Bandon, Oregon 97411

Mary L. Kistner  
P.O. Box 1873  
Bandon, Oregon 97411

George P. Bussmann  
92858 Blackberry Lane  
Port Orford, Oregon 97465

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2.2 Initial Capital Contributions. The initial capital contributions to the LLC by its Members are as follows:

|                      |  |
|----------------------|--|
| James A. Bussmann    | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |
| Peter David Bussmann | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |
| George P. Bussmann   | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |
| Sara L. Strain       | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |
| Elizabeth L. Potter  | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |
| Jennifer L. Bussmann | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |
| Mary L. Kistner      | An undivided 1/7th interest in that certain Oregon partnership known as Bussmann Cranberry Company |

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In exchange for the initial capital contributions to the LLC each of the above named Members has received 1,000 membership units and each Member's capital account shall have an initial agreed upon value of \$2,608.00.

The Members agree that the above stated capital contributions to the LLC now constitute LLC property. No interest shall be payable on the capital contributions of the Members to the LLC. No Member shall have the right, at any time during the term of this Agreement, to withdraw any part of his or her capital contributions to the LLC without the written consent of all other Members. If such consent is granted, then each Member shall have the right to withdraw the same percentage of his or her capital contributions to the LLC as each of the other Members.

2.3 Ownership; Membership Units. The ownership of the LLC is divided into 7,000 membership units, all of which are presently owned and held by the Members of the

LLC. Each membership unit presently constitutes a 1/7,000th ownership interest in the LLC. Additional membership units may be created and issued only in exchange for additional contributions to the capital of the LLC. Additional membership units may be created and issued only by the unanimous decision of the LLC's Members. The number of units to be created and issued by the LLC in exchange for additional contributions to the capital of the LLC shall, in each instance, be determined by the Members of the LLC. If additional membership units are to be created and issued in exchange for additional capital contributions to the LLC then each Member shall be entitled to acquire a proportionate share of such additional membership units based upon each Member's then respective ownership interest in the LLC.

2.4 Capital Accounts. An individual capital account shall be maintained for each Member. Each Member's capital account shall be: (i) Credited with all capital contributions by such Member to the LLC and the Member's distributive share of all income and gain of the LLC (including any income exempt from federal income tax); and, (ii) Charged with the amount of all distributions made to such Member from the LLC and the Member's distributive share of all losses of the LLC. The capital accounts shall be maintained in accordance with an accepted method of accounting consistently applied.

2.5 Loan From a Member to the LLC. A Member or manager may not lend or advance money to or for the benefit of the LLC without the approval of a majority of the managers of the LLC. Any loan or advance by a Member to or for the benefit of the LLC shall be segregated in a loans payable account. Interest shall be payable on all such loans and advances at the rate agreed upon in writing by the LLC at the time of such loan or advance, or in the default of such an agreement at the rate of nine percent (9%) per annum.

2.6 Limitation of Liability. Each Member's liability shall be limited as set forth in this Agreement and the laws of the State of Oregon. Except as otherwise provided by law, a Member will not be personally liable, merely as a Member, for any debts or losses of the LLC.

2.7 Indemnification. To the fullest extent provided or allowed by the laws of the State of Oregon, the LLC shall indemnify any Member, or Members, for all costs, losses, liabilities, and damages paid by such Member, or Members, in connection with the business of the LLC.

2.8 Other Business of Members. The parties hereto acknowledge that each Member is free to engage in investment ventures and business activities outside of the LLC and shall have no obligation to account to the LLC for the profits or income from such outside business or investments. Provided, however, each Member shall disclose to all other Members and managers of the LLC all business activities which may be in competition with the LLC and all business interests which may engage in business with the LLC. Each Member agrees to conduct all transactions with the LLC in good faith

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and in a fiduciary capacity. Members shall not appropriate the name, property or goodwill of the LLC for their own private business, nor for any purpose whatsoever except those that may be incidental to the conduct of business for the LLC, and they shall not use the name of the LLC for the use or accommodation of themselves or any other person. All new members of the LLC shall be subject to the terms and provisions of this Operating Agreement the same as if such new member had executed the same.

### ARTICLE 3

#### Member Meetings

3.1 Meetings. A meeting of the Members, for any purpose or purposes may be called by any Member or combination of Members who hold not less than twenty-five percent (25%) of the then issued and outstanding membership units of the LLC then owned by Members.

3.2 Place of Meeting. The location of the meeting shall be the principal office of the LLC or any other suitable place located in Coos or Curry County, Oregon, as may be specified by the person calling the meeting.

3.3 Notice of Meetings. Except as provided in paragraph 3.4 below, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered to each Member not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by first class mail, by or at the direction of the person calling the meeting.

3.4 Waiver of Notice. When any notice is required to be given to any Member, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

3.5 Meeting of all Members. If all of the Members shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting all lawful action may be taken.

3.6 Record Date. For the purpose of determining the Members for any purpose, the date on which any required notice is mailed, or if no notice is required then on the date such action or event occurs, shall be the record date for determining the Members.

3.7 Quorum. Members, represented in person or by proxy, holding at least seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members shall constitute a quorum at any meeting of the Members. In the absence of a quorum at a meeting, the Members so represented may adjourn the meeting from time to time for a period not to exceed sixty (60) days, without further notice other than announcement at the meeting, until a quorum shall be present or represented.

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3.8 Proxies. At all meetings of the Members a Member may vote in person or through a representative appointed by a written proxy executed by the Member. Such proxy shall be filed with the LLC before or at the time of the meeting and may be of any duration except that the appearance of a Member in person at a meeting shall void any outstanding proxy for that Member for so long as such Member is in attendance.

3.9 Membership Decisions. On each matter requiring action by the membership, each member shall be entitled to one vote for each membership unit owned by that member in the LLC. Except as otherwise stated in the Articles of Organization, this Operating Agreement, or applicable law, a matter submitted to a vote of the membership shall be deemed approved if it receives the affirmative vote of Members owning more than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members. Any matter decided by the affirmative vote of more than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members shall constitute a membership decision.

3.10 Action by Membership Without a Meeting. Action required or permitted to be taken at a meeting of Members may be taken without a meeting if the action is evidenced by a writing which describes the action taken, and is signed by Members owning more than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members. Such written approval for action by the LLC shall be filed in the records of the LLC. Actions authorized pursuant to the procedure set forth in this paragraph 3.10 shall be effective when the necessary Members have signed the written authorization, unless the written authorization specifies a different effective date. The record date for determining Members entitled to take action without a meeting shall be the date the first member signs the written authorization.

3.11 Meetings by Telephone. Meetings of the Members may be held by conference telephone call or by any other means of communication by which all the participants can hear each other simultaneously during the meeting, and participation in such manner shall be deemed to constitute the presence in person by a Member at the meeting. Any Member receiving notice of a meeting may notify the Member or Members calling the meeting that he or she will attend the meeting by telephone. The Member calling the meeting shall then be responsible to make such arrangements as may be necessary to facilitate the attendance at the meeting by any Member wishing to attend by telephone.

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**ARTICLE 4**

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Accounting and Records

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4.1 Books of LLC. The LLC's books and records, a register showing the names, addresses and number of membership units owned by each Member, and an executed

copy of this Operating Agreement shall be maintained at the principal place of business of the LLC. Books of accounts shall be kept by the LLC and entries shall be made therein of all money, goods, effects, debts, sales, purchases, receipts, payments and any other transactions of the LLC. The books of accounts, together with all bonds, notes, bills, letters and other writings belonging to the LLC, shall be maintained at the principal place of business of the LLC as set forth in this Agreement.

4.2 Fiscal Year. The fiscal year of the LLC shall be January 1 to December 31.

4.3 Accounting Reports. Within ninety (90) days after the close of each fiscal year the LLC shall provide each Member and each manager with an unaudited report of the activities of the LLC for the preceding fiscal year, including a copy of the balance sheet of the LLC as of the end of such year and a profit and loss statement for such year. The balance sheet shall show all LLC property, assets and liabilities and shall state the net value of the LLC.

4.4 Tax Returns. The managers shall cause all required federal and state income tax returns for the LLC to be prepared and timely filed with the appropriate authorities. Within ninety (90) days after the end of each fiscal year, each Member shall be furnished a statement suitable for use in the preparation of the Member's income tax return, showing the amounts of any distributions, contributions, gains, losses, profits, or credits allocated to the Member for such fiscal year.

4.5 Books, Records and Information. Each of the Members and each of the managers shall have free and complete access to the books, papers and affairs of the LLC at all reasonable times. At all reasonable times, any manager, Member, or the Member's agent, accountant or attorney shall have the right to inspect and/or copy, at the requesting party's expense, any and all books, records and papers of the LLC.

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## ARTICLE 5

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### Allocations and Distributions

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5.1 Allocations of Income and Loss for Tax Purposes. All items of income, gain, loss, deduction and credit shall be allocated among the Members in proportion to the number of membership units in the LLC owned by each or as unanimously agreed otherwise by all Members of the LLC.

5.2 Distributions. The LLC shall make distributions of cash and/or assets of the LLC to its Members in such amounts and at such time or times as the membership of the LLC shall from time to time determine. All such distributions shall be divided among the Members in proportion to the number of membership units in the LLC owned by each Member. No distributions shall be made which violate the restrictions governing distributions under the Oregon Limited Liability Company Act. At a minimum the LLC shall make annual distributions of cash sufficient to pay state and federal income taxes

on income of the LLC allocated to its Members unless the Members of the LLC unanimously decide otherwise.

## ARTICLE 6

### Management

6.1 Managers. The LLC shall be managed by four managers. A manager need not be a Member of the LLC or a resident of the State of Oregon. The initial managers of the LLC shall be Ernest A. Bussmann, Peter E. Bussmann, James A. Bussmann and George P. Bussmann. A manager shall serve until his or her death, resignation or removal.

6.2 A manager may be removed only by the affirmative vote of Members owning more than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members. Upon the death, resignation or removal of a manager the following named individuals (in descending order as listed below) shall fill the vacant manager position and serve as manager: (1) Peter David Bussmann, (2) Sara L. Strain, (3) Elizabeth L. Potter, (4) Mary L. Kistner and (5) Jennifer L. Bussmann. In the event none of the individuals named in this paragraph 6.2 above is able or willing to fill a vacant manager position, the number of managers shall be reduced or a new manager selected as shall be determined by action of the Members in accordance with the provisions of Article 3 of this Agreement.

6.3 Authority. Subject to restrictions that may be imposed from time to time by action of the Members, the managers shall have the sole and exclusive right to manage the business of the LLC and shall have the authority to bind the LLC in the ordinary course of its business. The managers shall not take any of the following actions without first obtaining the approval of Members owning more than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members:

- (a) Merge the LLC with another entity;
- (b) Amend the LLC's Articles of Organization;
- (c) Pledge the credit of the LLC in any way except in the ordinary course of the LLC's business;
- (d) Make an assignment for the benefit of creditors;
- (e) Release, assign or transfer a LLC claim, security, commodity or any other asset belonging to the LLC other than in the ordinary course of business;

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- (f) Lend any money belonging to the LLC;
- (g) Submit a claim or liability of the LLC to arbitration, or confess judgment; or,
- (h) Change the nature of the business of the LLC.

6.4 Action by Managers. The rights and powers of the managers hereunder shall be exercised by them in the following manner:

(a) Meetings. Meetings of the managers, for any purpose or purposes, may be called by any manager.

(b) Place of Meeting. The location of a meeting shall be the principal office of the LLC or any other suitable place located in Coos or Curry County, Oregon, as may be specified by the manager or managers calling the meeting.

(c) Notice of Meetings. Except as provided in subparagraph 6.4(d) below, written notice stating the place, day and hour of the meeting and the purpose or purposes for which the meeting is called shall be delivered to each manager not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by first class mail, by or at the direction of the person calling the meeting.

(d) Waiver of Notice. When any notice is required to be given to any manager, a waiver thereof in writing signed by the person entitled to such notice, whether before, at, or after the time stated therein, shall be equivalent to the giving of such notice.

(e) Meeting of all Managers. If all of the managers shall meet at any time and place, and consent to the holding of a meeting at such time and place, such meeting shall be valid without call or notice, and at such meeting all lawful action may be taken.

(f) Quorum. More than half of the managers represented either in person or by proxy shall constitute a quorum at any meeting of the managers. In the absence of a quorum at a meeting, the managers present may adjourn the meeting from time to time for a period not to exceed sixty (60) days, without further notice other than announcement at the meeting, until a quorum shall be present or represented.

(g) Proxies. At all meetings of the managers a manager may vote in person or through a representative appointed by a written proxy executed by the manager. Such proxy shall be filed with the managers before or at the time of the meeting and may be of any duration except that the appearance of a manager in

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person at a meeting shall void any outstanding proxy for that manager for so long as such manager is in attendance.

(h) Manner of Acting. If a quorum is present, the act of a majority of the managers who are present, in person or by proxy, shall be the act of the managers, unless the vote of a greater or lesser proportion or number is otherwise required by applicable law or this Agreement. Unless otherwise expressly provided herein or required under applicable law, managers who have a personal interest in the outcome of a particular matter which conflicts or potentially conflicts with the interests of the LLC may not vote upon such matter and the quorum for any such vote shall be determined as if the number of managers of the LLC did not include the manager or managers having a personal interest in the outcome.

(i) Action by Managers Without a Meeting. Action required or permitted to be taken at a meeting of managers may be taken without a meeting if the action is evidenced by a writing which describes the action taken, and is signed by managers sufficient to have approved the action had a duly called meeting been held at which all managers were in attendance. Such written approval for action by the LLC shall be filed in the records of the LLC. Actions authorized pursuant to the procedure set forth in this subparagraph 6.4(i) shall be effective when the necessary managers have signed the written authorization, unless the written authorization specifies a different effective date.

(j) Meetings by Telephone. Meetings of the managers may be held by conference telephone call or by any other means of communication by which all the participants can hear each other simultaneously during the meeting, and participation in such manner shall be deemed to constitute the presence in person by a manager at the meeting. Any manager receiving notice of a meeting may notify the manager or managers calling the meeting that he or she will attend the meeting by telephone. The manager calling the meeting shall then be responsible to make such arrangements as may be necessary to facilitate the attendance at the meeting by a manager wishing to attend by telephone.

6.5 Decisions of Members. The managers shall carry out all decisions of the Members made in accordance with the provisions of this Agreement and shall not take any action contrary to any such decision of the Members.

6.6 Other Activities. The managers may have other business interests and may engage in other activities in addition to those relating to the LLC. The managers, however, shall devote sufficient time and energy to provide for the proper management of the LLC. The managers shall be obligated to act at all times in the best interests of the LLC.

6.7 Resignation. A manager may resign at any time by delivering written notice to each of the Members and to the remaining managers. The resignation shall be

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effective as of the date specified in the notice of resignation. The resignation of a manager who is also a Member shall not affect the manager's rights as a Member and shall not constitute a withdrawal as a Member.

**6.8 Removal of Manager by Members.** By action of the Members in accordance with the provisions of Article 3 of this Agreement, the Members may remove one or more managers with or without cause. A manager may be removed by the Members only at a meeting called for the purpose of removing the manager and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of a manager.

**6.9 Duty of Good Faith.** The managers shall be under a fiduciary duty to perform their duties as managers in good faith, in a manner they reasonably believe to be in the best interests of the LLC and its Members, and with such care as an ordinarily prudent person in a like position would use under similar circumstances.

**6.10 Indemnity of Managers.** A manager is not personally liable for any debt, obligation or liability of the LLC merely by reason of being a manager. A manager who performs the duties as manager in accordance with this Agreement shall not have any liability by reason of being or having been a manager. The LLC shall indemnify the managers and make advances for expenses to the maximum extent permitted by law. A manager shall be liable to the LLC or its Members only if the manager has committed any of the following:

- (a) Any breach of a manager's duty of loyalty to the LLC or its Members as described in this Agreement;
- (b) Acts or omissions not in good faith which involve intentional misconduct or a knowing violation of law;
- (c) Any unlawful distribution prohibited by law; or,
- (d) Any transaction from which the manager derives an improper personal benefit.

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**6.11 Other Business of Managers.** The parties hereto acknowledge that each Manager is free to engage in investment ventures and business activities outside of the LLC and shall have no obligation to account to the LLC for the profits or income from such outside business or investments. Provided, however, each manager shall disclose to all other Members and managers of the LLC all business activities which may be in competition with the LLC and all business interests which may engage in business with the LLC. Each manager agrees to conduct all transactions with the LLC in good faith and in a fiduciary capacity. Managers shall not appropriate the name, property or goodwill of the LLC for their own private business, nor for any purpose whatsoever except those that may be incidental to the conduct and management of the LLC, and

they shall not use the name of the LLC for the use or accommodation of themselves or any other person. Each manager shall use his or her best endeavors to promote the business and the interests of the LLC.

## ARTICLE 7

### Transfers, Buy-Out Provisions, Withdrawal and Dissolution

7.1 Transfer of Membership Units. If a Member of the LLC transfers his or her membership units in the LLC, whether by sale, gift, devise or any other method, the transferee of such membership units shall not be a Member of the LLC but shall instead hold the transferred membership units as an assignee and shall have the rights, duties and obligations of an assignee as set forth in ORS Chapter 63. Provided, however, a Member may transfer his or her membership units to any individual who is such Member's descendant and upon such transfer such transferee shall be a Member of the LLC.

7.2 Cessation of Membership. A Member shall cease to be a Member of the LLC upon such Member's incompetency, bankruptcy, withdrawal or expulsion. Upon the cessation of a Member's membership in the LLC by reason of such Member's incompetency, bankruptcy, withdrawal or expulsion such former Member's interest in the LLC shall be that of an assignee, and he shall hold his membership units in the LLC as an assignee and shall have the rights, duties and obligations of an assignee as set forth in ORS Chapter 63.

7.3 Withdrawal and Expulsion. Any Member may withdraw as a Member of the LLC by serving every other Member and each of the managers of the LLC with a notice of withdrawal not less than sixty (60) days prior to the effective date of such withdrawal. Any Member may be expelled from the LLC for a material breach of this Agreement, but only upon the agreement of other Members of the LLC who then own not less than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owned by Members. Upon the decision being made to expel a Member, written notice of such expulsion shall be served on the expelled Member and such expulsion shall take effect upon the service of such notice.

7.4 Dissolution. The dissolution of the LLC shall occur only upon the approval of those Members owning more than seventy percent (70%) of the then issued and outstanding membership units of the LLC then owed by Members.

7.5 Liquidation and Winding Up Upon Dissolution. Upon the dissolution of the LLC the LLC shall cease to engage in business other than that necessary to wind up its business and liquidate and distribute its assets. The Members shall continue to divide profits and losses during the liquidation and winding up period in the same manner as profits and losses were divided prior to dissolution. Any gain or loss arising out of the disposition of LLC assets during the course of liquidation and winding up shall be credited or debited to the Members the same as profits and losses were credited or

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credited prior to dissolution. The Members shall liquidate the LLC as promptly as may be consistent with obtaining a fair value for its assets, and shall cause the proceeds therefrom, to the extent sufficient therefor, to be applied and distributed in the following order:

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- (a) First, to the payment and discharge of the expenses of liquidation and all debts and liabilities of the LLC to creditors other than Members;
- (b) Second, to the payment and discharge of all debts and liabilities of the LLC to Members;
- (c) The balance, if any, shall be distributed to the Members in proportion to their capital accounts, after giving effect to all contributions, distributions and allocations for all periods.

Except as otherwise provided in this agreement, each Member shall look solely to the assets of the LLC for the return of contributions and shall have no right or power to demand or receive property other than cash from the LLC, and no Member shall have priority over any other Member for distributions or the return of contributions.

**7.6 Purchase of Assignee's Membership Units.** Any Member or Members of the LLC may at any time elect to purchase all, but not less than all, of the membership units of an assignee of the LLC. Any Member or Members who elect to purchase the membership units of an assignee (the "electing Member or Members") shall notify each of the other Members of the LLC and the assignee whose membership units are to be purchased of such election. Within thirty (30) days after such election the electing Member or Members and the assignee shall attempt to agree on a purchase price and terms of payment for the membership units of the assignee. If a purchase price and terms are agreed to then the other Members of the LLC shall be notified of such purchase price and terms and shall have fifteen (15) days from such notification to inform the electing Member or Members that they wish to participate in the purchase of the assignee's membership units on a pro-rata basis. Within thirty (30) days after the date of the purchase price notification the sale shall be closed at the price and on the terms agreed to by the electing Member or Members and the assignee. Each Member who elects to join the electing Member or Members as a purchaser subsequent to the purchase price and terms being established by agreement shall be entitled to purchase that fraction of the membership units being sold as shall equal the number one over the total number of Members participating in the purchase of the assignee's membership units. If the assignee and the electing Member or Members cannot agree on a purchase price then the LLC shall be appraised as a going concern by a qualified appraiser to be selected by the assignee and the electing Member or Members. If the assignee and the electing Member or Members are unable to agree on the selection of an appraiser then the selection of a qualified appraiser shall be

submitted to the Circuit Court of Curry County, Oregon. Once an appraiser has been selected, his determination of the LLC's fair market value as a going concern shall be binding and conclusive on the assignee and the electing Member or Members. The purchase price for the assignee's membership units shall then equal the appraised fair market value of the LLC as a going concern times the number of membership units to be purchased from the assignee divided by the total number of then issued and outstanding membership units of the LLC. The purchase price for the membership units having been established, the other Members of the LLC shall be notified of such purchase price and shall have fifteen (15) days from such notification to inform the electing Member or Members that they wish to participate in the purchase of the assignee's membership units on a pro-rata basis. Each Member who elects to join the electing Member or Members as a purchaser subsequent to the purchase price being established by appraisal shall be entitled to purchase that fraction of the membership units being sold as shall equal the number one over the total number of Members participating in the purchase of the assignee's membership units. Within thirty (30) days of the purchase price notification the sale shall be closed. The terms of payment of such purchase price shall be as follows:

Fifteen percent (15%) of said purchase price shall be paid as a down payment at closing. The remaining unpaid balance of the purchase price shall be paid in one hundred twenty (120) equal monthly installments, including principal and interest, the first of which shall be payable one (1) month after the date of closing and each subsequent payment shall be due on the same day of each and every month thereafter until the entire unpaid balance together with interest thereon has been paid in full. The unpaid principal balance shall bear interest at the rate of eight percent (8%) per annum from the date of closing until paid. The unpaid balance of the purchase price may be prepaid in whole or in part at any time by increasing the amount of any installment payment or prepaying the whole consideration, provided no additional payments shall be credited as regular future payments nor excuse the purchaser from making the regular monthly installments provided for by this Agreement. At the closing of the purchase, the assignee and the purchasing Member(s) shall execute an agreement in a form to be prepared by their respective attorneys which shall provide for the sale and purchase of the assignee's membership units in the LLC, shall set forth the terms of payment and shall provide the assignee with adequate security from the purchasing Member(s) for all amounts remaining to be paid for the purchase of the assignee's membership units in the LLC. For purposes of this paragraph, adequate security shall be deemed to be collateral having a value equal to one hundred fifty percent (150%) of the unpaid balance of the purchase price. The purchasing Member(s) shall further do all acts and execute all documents reasonably necessary to perfect

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WATER RESOURCES DEPT  
SALEM, OREGON

and continue the perfection of all security interests given pursuant to the terms of this paragraph.

(a) Closing. The closing of the purchase shall take place at the principal office of the LLC or at such other place as the parties shall agree.

(b) Cost of Appraisal. In the event an appraisal is required to determine the purchase price of an assignee's membership units the assignee shall pay the cost of such appraisal.

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**ARTICLE 8**

MAR 17 2015

Miscellaneous Provisions

WATER RESOURCES DEPT  
SALEM, OREGON

8.1 Additional Documents. Each Member agrees to execute such additional documents and take such additional actions as are reasonably necessary in order to complete or confirm the transactions contemplated by this Operating Agreement.

8.2 Third Party Beneficiaries. The provisions of this Operating Agreement are intended solely for the benefit of the Members and assignees of the LLC and shall create no rights or obligations enforceable by any third party, including creditors of the LLC, except as otherwise provided by applicable law.

8.3 Rights and Liabilities Cease. When any party to this Agreement ceases to be a Member of the LLC in a manner authorized by this Agreement, he or she shall have no further rights or liabilities as a Member of the LLC.

8.4 Assignee. As used in this Agreement the term "Member" shall also be deemed to include an assignee of a Member's interest, but only where a right, duty or obligation of an assignee as set forth in ORS Chapter 63 is the same as a right, duty or obligation of a Member.

8.5 Notice. Any notice to a Member under this Agreement (other than a notice of meeting made pursuant to paragraph 3.3 of this Agreement) shall be in writing and shall be effective when actually delivered or when deposited in the mail, first class postage prepaid, registered or certified, return receipt requested, addressed to the Member at his or her last known address as appears in the records of the LLC.

8.6 Attorney Fees. In the event any suit or action is brought by any party under this Agreement to enforce any of its terms, it is agreed that the prevailing party shall be entitled to a reasonable attorney fee to be fixed by the trial and appellate courts.

8.7 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Oregon. The parties agree that all disputes relating to this Agreement shall be tried before the courts of Oregon to the exclusion of all courts which might

have jurisdiction apart from this provision. Venue in any suit or action arising hereunder shall be in the courts of Coos County, Oregon.

**8.8 Breach -- Equitable Relief.** The parties acknowledge that the membership units of the LLC are unique and that money damages alone for breach of this Agreement are inadequate. Any party aggrieved by a breach of any provision hereof may bring an action at law or a suit in equity to obtain redress, including specific performance, injunctive relief, or any other available equitable remedy. Time and strict performance are the essence of this Agreement.

**8.9 Cumulation of Rights.** The various rights, options, elections, powers and remedies of a party or parties to this Agreement shall be construed as cumulative, and no one of them shall be deemed to exclude any other legal or equitable remedy which said party or parties might otherwise have in the event of a breach or default in the terms hereof. The exercise of one right or remedy by a party or parties shall not in any manner impair his rights to any other right or remedy until all obligations imposed on a party or parties have been duly performed.

**8.10 Modification and Waiver.** No change or modification of this Agreement shall be valid or binding upon the parties, nor shall any waiver of any term or condition hereof be deemed a waiver of such term or condition in the future, unless such change or modification or waiver shall be in writing signed by all parties to this Agreement.

**8.11 Severability.** Invalidation of any provision of this Agreement by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.

**8.12 Integration.** This Agreement embodies the entire agreement of the parties with regard to the subject matter hereof. There are no promises, terms, conditions or obligations other than those contained herein. This Agreement shall supersede all prior communications, representations or agreements, either verbal or written, between the parties pertaining to the subject matter of this Agreement.

**8.13 Number and Gender: Parties.** As used herein, the singular shall include the plural and the plural the singular. The masculine, feminine and the neuter genders shall each include all the others as the context requires.

**8.14 Legal Effect and Benefit.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns, and the parties hereto agree for themselves and their heirs, successors and assigns to execute any instruments in writing which may be necessary or proper in carrying out the purposes of this Agreement.

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8.15 Legal Representation. The parties hereto acknowledge that the law firm of Lesan & Finneran has represented only the LLC in all aspects of this transaction including, but not limited to the preparation of the documents utilized herein and that each of the Members named in this Agreement have been advised to obtain independent legal advice with respect to the purpose, effect and advisability of this transaction and his or her rights and obligations under this agreement.

IN WITNESS WHEREOF, the parties hereto have signed this operating agreement on the day and year first written above.

\_\_\_\_\_  
James A. Bussmann

\_\_\_\_\_  
Peter David Bussmann

\_\_\_\_\_  
George P. Bussmann

\_\_\_\_\_  
Sara L. Strain

\_\_\_\_\_  
Elizabeth L. Potter

\_\_\_\_\_  
Jennifer L. Bussmann

\_\_\_\_\_  
Mary L. Kistner

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WATER RESOURCES DEPT  
SALEM, OREGON

After recording, return to:

Lawrence F. Finneran  
P.O. Box 359  
Coos Bay, Oregon 97420

Until a Change is Requested  
Send Tax Statements to:

Peter E. Bussmann  
P.O. Box 228  
Sixes, Oregon 97476

Consideration:

There is no consideration for this conveyance as the same is being made as a gift.

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WATER RESOURCES DEPT  
SALEM, OREGON

### WARRANTY DEED

ERNEST A. BUSSMANN, LYNN E. BUSSMANN, PETER E. BUSSMANN and DIANA V. BUSSMANN, "Grantors," convey and warrant an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to MARY L. KISTNER, "Grantee", an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to JENNIFER L. BUSSMANN, "Grantee", an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to ELIZABETH L. BUSSMANN, "Grantee", an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to SARA L. STRAIN, formerly known as Sara L. Bussmann aka Sarah L. Bussmann, "Grantee", an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to GEORGE P. BUSSMANN, "Grantee", an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to JAMES A. BUSSMANN, "Grantee", and an undivided four and two-sevenths eighty-eighths ( $4\frac{2}{7}/88$ ths) interest as tenant in common of the hereinafter described real property to PETER DAVID BUSSMANN, "Grantee". The real property conveyed by this deed is free and clear of all liens and encumbrances except those specifically set forth herein and said real property is legally described as follows:

6/18/1999 10:50 REC FEE: \$50.00  
URRY COUNTY, OR, RENEE' KOLEN - COUNTY CLERK

PAGE #: 0001 OF 0004  
INST#: 1999 3480 \*\*

That certain tract of land lying in Section 5, Township 32 South, Range 15 West, Willamette Meridian, Curry County Oregon described as follows:

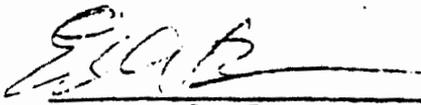
Government Lots 1, 2, and 3; also the Southeast 1/4 of the Northwest 1/4 and the South 1/2 of the Northeast 1/4.

**SUBJECT TO AND EXCEPTING:** Those liens and encumbrances presently existing of record.

The effect of this deed in conjunction with the deed recorded December 30, 1997, as instrument no. 97-06062, Real Property Records of Curry County, Oregon, and the Deed recorded December 30, 1998, as instrument no. 1998-6758, Real Property Records of Curry County, Oregon, is to convey to each of the Grantees herein named an undivided one-seventh (1/7th) interest in the real property described above. Each of the seven Grantees named in this deed now own an undivided one-seventh (1/7th) interest in the above described real property as tenants in common.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

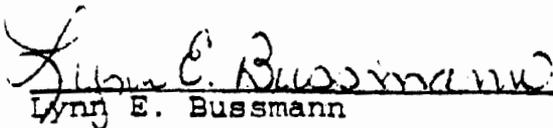
DATED this 16th day of June, 1999.



Ernest A. Bussmann



Peter E. Bussmann



Lynn E. Bussmann



Diana V. Bussmann

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WATER RESOURCES DEPT  
SALEM, OREGON

6/18/1999 10:50 REC FEE: \$50.00  
CURRY COUNTY, OR, RENEE KOLEN - COUNTY CLERK

PAGE #: 0002 OF 0004  
INST#: 1999 3480

STATE OF OREGON )  
County of Coos ) ss.

May 4, 1999

Personally appeared before me the above-named Ernest A. Bussmann who acknowledged the foregoing instrument as his voluntary act and deed.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 6-4-2003

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WATER RESOURCES DEPT  
SALEM, OREGON

STATE OF OREGON )  
County of Coos ) ss.

May 4, 1999

Personally appeared before me the above-named Lynn E. Bussmann who acknowledged the foregoing instrument as her voluntary act and deed.

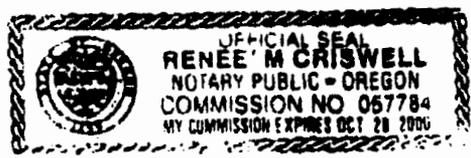


[Signature]  
Notary Public for Oregon  
My Commission Expires: 6-4-03

STATE OF OREGON )  
County of Coos ) ss.

June 16, 1999

Personally appeared before me the above-named Peter E. Bussmann who acknowledged the foregoing instrument as his voluntary act and deed.

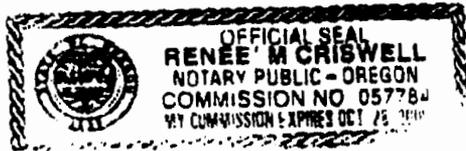


[Signature]  
Notary Public for Oregon  
My Commission Expires: 10-28-00

STATE OF OREGON )  
County of COOS ) SS.

June 16, 1999

Personally appeared before me the above-named Diana V. Bussmann who acknowledged the foregoing instrument as her voluntary act and deed.



Renee M Criswell  
Notary Public for Oregon  
My Commission Expires: 10-28-00

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WATER RESOURCES DEPT  
SALEM, OREGON

06/18/1999 10:50 REC FEE: \$50.00  
CURRY COUNTY, OR, RENEE' KOLEN - COUNTY CLERK

PAGE #: 0004 OF 0004  
INST#: 1999 3480

That certain tract of land lying in Section 5, Township 32 South, Range 15 West, Willamette Meridian, Curry County Oregon described as follows:

Government Lots 1, 2, and 3; also the Southeast 1/4 of the Northwest 1/4 and the South 1/2 of the Northeast 1/4.

**SUBJECT TO AND EXCEPTING:** Those liens and encumbrances presently existing of record.

THIS INSTRUMENT WILL 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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

DATED this 30<sup>th</sup> day of December, 1997.

BUSSMANN BROTHERS, an Oregon partnership

By: [Signature]  
Ernest Bussmann, Partner

By: [Signature]  
Peter Bussmann, Partner

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MAR 17 2015

WATER RESOURCES DEPT  
SALEM, OREGON

STATE OF OREGON            )  
  ) ss.  
County of Coos            )  
December 30<sup>th</sup>, 1997

Personally appeared before me the above named Ernest Bussmann, who being first duly sworn on oath did say: That he is a partner of Bussmann Brothers, an Oregon partnership; that he is authorized to execute the foregoing deed on behalf of said partnership; and, he acknowledged the foregoing instrument as the voluntary act and deed of said partnership.



[Signature]  
Notary Public for Oregon  
My Commission Expires: April 9, 2000

After recording return to:  
Key Title Company  
P.O. Box 6456  
Brookings, OR 97415  
Return tax statements to:  
George P. Bussmann  
Diane G. Bussmann  
92858 Blackberry Lane  
Port Orford, OR 97465

Title Order No. 35000436  
Key Escrow No. 35000436  
Tax Account No. 32-15-4 TL 301  
Map No. 32-15-4 TL 301

COPY

**BARGAIN AND SALE DEED**

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WATER RESOURCES DEPT  
SALEM, OREGON

KNOW ALL MEN BY THESE PRESENTS, that.

GEORGE BUSSMANN

hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto:

GEORGE P. BUSSMAN and DIANE G. BUSSMANN, husband and wife

hereinafter called grantee, and unto grantee's heirs, successors and assigns all of that certain real property which the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Curry, State of Oregon, described as follows, to-wit:

Beginning at the Northwest corner of Section 4, Township 32 South, Range 15 West, Willamette Meridian, Curry County, Oregon; thence East along the North line of Government Lot 4, said Section 4, a distance of 1320.0 feet, more or less, to the Northeast corner of said Government Lot 4; thence South along the East line of said Government Lot 4, a distance of 1346.0 feet, more or less, to a point located North, 100.0 feet from the Southeast corner of said Government Lot 4; thence West, parallel to the North line of said Government 4, a distance of 1320.0 feet, more or less, to the West line of Government Lot 4; thence North along said West line of Government Lot 4, 1346.0 feet, more or less, to the Point of Beginning.

TOGETHER WITH an easement for ingress, egress, and utilities, 50.0 feet in width, 25.0 feet either side of the following described centerline:

Beginning at a point lying on the approximate North boundary of the Southwest quarter of said Section 4, East 199.21 feet from the Quarter Section Corner on the West side of said Section 4, (marked by a brass capped iron pipe); thence South 4°17' East 372.52 feet; thence South 20°02' East 395.71 feet; thence South 33°23' East 182.4 feet; thence South 14°28' East 169.48 feet; thence South 30°48' East 381.01 feet; thence South 54°51' East 113.36 feet; thence South 854' East 127.21 feet; thence South 1°14' East 347.38 feet; thence South 19°37' East 212.78 feet; thence South 5435' East 374.48 feet; thence South 78°27' East 110.77 feet, more or less, to the approximate Westerly end of Childers County Road.

ALSO TOGETHER WITH an easement for ingress, egress, and utilities, 50.0 feet in width, 25.0 feet either side of the following described centerline:

Beginning at a point lying on the approximate North boundary of the Southwest quarter of Section 4, East 199.21 feet from the quarter corner on the West side of Section 4; thence North 25.00 feet; thence West, 174.2 feet; thence North parallel with the West line of Section 4, a distance of 1395.0 feet to the South line of the above described Parcel.

To Have and Hold the same unto the said grantees and grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is . . . However, if the actual consideration consists of or includes other property or value given or promised which is the whole/part of the consideration (indicate which).

In construing this deed and where the context so requires, the singular included plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this \_\_\_\_ day of December, 1998; if a corporate grantor, it has caused its name signed and its seal affixed by an officer or other person duly authorized to do so by its board of directors.

**THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE**

R-88062

**EXHIBIT "A"**

Beginning at the Northwest corner of Section 4, Township 32 South, Range 15 West, Willamette Meridian, Curry County, Oregon; thence East along the North line of Government Lot 4, said Section 4, a distance of 1320.0 feet, more or less, to the Northeast corner of said Government Lot 4; thence South along the East line of said Government Lot 4, a distance of 1346.0 feet, more or less, to a point located North, 100.0 feet from the Southeast corner of said Government Lot 4; thence West, parallel to the North line of said Government 4, a distance of 1320.0 feet, more or less, to the West line of Government Lot 4; thence North along said West line of Government Lot 4, 1346.0 feet, more or less, to the Point of Beginning.

TOGETHER WITH an easement for ingress, egress, and utilities, 50.0 feet in width, 25.0 feet either side of the following described centerline:

Beginning at a point lying on the approximate North boundary of the Southwest quarter of said Section 4, East 199.21 feet from the Quarter Section Corner on the West side of said Section 4, (marked by a brass capped iron pipe); thence South  $4^{\circ}17'$  East 372.52 feet; thence South  $20^{\circ}02'$  East 395.71 feet; thence South  $33^{\circ}23'$  East 182.4 feet; thence South  $14^{\circ}28'$  East 169.48 feet; thence South  $30^{\circ}48'$  East 381.01 feet; thence South  $54^{\circ}51'$  East 113.36 feet; thence South 854' East 127.21 feet; thence South  $1^{\circ}14'$  East 347.38 feet; thence South  $19^{\circ}37'$  East 212.78 feet; thence South 5435' East 374.48 feet; thence South  $78^{\circ}27'$  East 110.77 feet, more or less, to the approximate Westerly end of Childers County Road.

ALSO TOGETHER WITH an easement for ingress, egress, and utilities, 50.0 feet in width, 25.0 feet either side of the following described centerline:

Beginning at a point lying on the approximate North boundary of the Southwest quarter of Section 4, East 199.21 feet from the quarter corner on the West side of Section 4; thence North 25.00 feet; thence West, 174.2 feet; thence North parallel with the West line of Section 4, a distance of 1395.0 feet to the South line of the above described Parcel.

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SALEM, OREGON

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 APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

GRANTOR (S):

\_\_\_\_\_  
GEORGE BUSSMANN

STATE OF Oregon, County of \_\_\_\_\_) ss.

This instrument was acknowledged before me on the \_\_\_\_ day of December, 1998 by GEORGE BUSSMANN.

\_\_\_\_\_  
Notary Public for Oregon

My Commission Expires: \_\_\_\_\_

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WATER RESOURCES DEPT  
SALEM, OREGON

R-B 8062



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

March 18, 2015

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: G-16737 (Permit G-16320)**. Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Corey Courchane at (503) 986-0825. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: [www.wrd.state.or.us](http://www.wrd.state.or.us).

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WATER RESOURCES DEPT  
SALEM, OREGON

R-88062



# Oregon

Kate Brown, Governor

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

March 18, 2015

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: G-16737 (Permit G-16320)**. Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Corey Courchane at (503) 986-0825. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: [www.wrd.state.or.us](http://www.wrd.state.or.us).

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WATER RESOURCES DEPT  
SALEM, OREGON

R-08062

**LEASE AGREEMENT**

THIS AGREEMENT, made and effective this 22<sup>nd</sup> day of March, 2011, by and between JAMES A. BUSSMANN, hereinafter called "Landlord", and JWB CRANBERRIES LLC, hereinafter called "Tenant".

1. Property Leased. In consideration of the rents, covenants and agreements contained herein, Landlord leases to Tenant and Tenant rents from Landlord the following:

Approximately 17 acres of land used for the production of cranberries and being a portion of the following described real property:

The Southeast 1/4 of the Northwest 1/4 plus the southerly 100 feet of Government Lot 3, and the Southwest 1/4 of the Northwest 1/4 plus the southerly 100 feet of Government Lot 4, all in Section 4, Township 32 South, Range 15 West of the Willamette Meridian, Curry County, Oregon.

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2. Term and Rental. This lease shall commence on the 22<sup>nd</sup> day of March, 2011, and shall continue on a calendar year basis until one of the parties hereto gives written notice to the other party hereto of that party's election to terminate the lease. Any notice of termination of this lease shall terminate the lease as of the next occurring January 1 following the giving of notice of termination. Provided, however, in no event shall this lease be terminated by a notice given less than sixty (60) days prior to the termination date of the lease. The agreed rental for the leased property shall be seventy-five percent (75%) of the net profit derived by Tenant from the sale of cranberries harvested from the leased real property. The term net profit as used in the preceding sentence shall equal the gross sale receipts for all cranberries harvested from the leased real property during a calendar year less all costs and expenses of Tenant's cranberry growing business for that same crop (excluding, however, rent payable under this lease) which can legitimately be deducted as a business expense by Tenant under the Internal Revenue Code. The total of rent for each calendar year shall be determined by the parties and paid by Tenant to Landlord on December 31 of that year. If payments are received or expenses incurred with respect to cranberries harvested during a calendar year after the end of such calendar year, then the rent for such calendar year shall be adjusted between the parties hereto to take into account such payments received and/or expenses incurred and payment of additional rent or the refund of overpaid rent shall be promptly made. Tenant may pay estimated rent to Landlord at any time prior to the due date for payment of rent. In the event Tenant overpays the rent owed by Tenant for any given year Landlord shall promptly refund such overpayment to Tenant once the same has been determined. All of Tenant's

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books and records with respect to its cranberry growing business shall be open to inspection at any time by Landlord or by Landlord's accountants and/or attorneys. All rent payable under this lease shall be delivered to Landlord at 93032 Childers Road, Sixes, Oregon, or mailed to Landlord at the following address: PO Box 211, Sixes, Oregon, 97476.

3. Use of Premises, Maintenance and Condition. Tenant agrees that it will use the leased real property as a cranberry farm and that this character of the occupancy is the essence of this Agreement. Tenant agrees that it will not permit said premises to be used for any unlawful or offensive purposes, and that it will fully observe and comply with all the laws, regulations and requirements of governmental agencies affecting the use and occupancy of said premises. Tenant agrees to maintain said property in good condition and repair, and repair any damage or injuries which might occur thereto during the term of this lease. At the expiration of the lease term Tenant shall restore the premises to Landlord in as good a condition as they existed at the time of the execution of this lease, reasonable wear and tear excepted, and shall remove all of Tenant's personal property from the premises. It is agreed that at the time Tenant takes possession of said premises the same shall be deemed to be in tenantable condition and are accepted by Tenant in their present condition.

Tenant agrees that it will make no alterations, additions or improvements to or upon the leased property without the written consent of Landlord first being obtained. All improvements, repairs and alterations performed on the leased property by Tenant shall be the property of Landlord when installed unless the applicable Landlord's consent specifically provides otherwise.

4. Waste. Tenant agrees that it will not suffer nor permit any waste to be committed to said premises.

5. Assignment and Sublease. Tenant agrees that it will not assign this lease or any interest or part thereof, or sublet said premises or any part or portion thereof, without first obtaining the written consent of Landlord, and any assignment or subletting without such written consent shall be null and void. Landlord may withhold Landlord's consent to any such assignment or sublease in Landlord's sole discretion.

6. Utilities. Tenant shall be solely responsible for and shall promptly pay when due all expenses for any utility used or consumed in or about the leased premises by Tenant during the term hereof.

7. Property Taxes. Landlord agrees that Landlord will be responsible for the payment of property taxes assessed against the property leased under this Agreement during the term of this lease.

8. Quiet Enjoyment. Landlord covenants and agrees to and with Tenant that upon payment by Tenant of the rents herein reserved, and upon the observance and

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performance of all of the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the leased property for the term hereby demised without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through or under Landlord, subject, nevertheless, to the terms and conditions of this lease. Landlord shall have the right to inspect the property during the term of this lease at all reasonable times after giving not less than forty-eight (48) hours prior notice to Tenant.

9. Insurance. Commencing with the execution hereof, and continuing thereafter at all times during the term of this lease, Landlord agrees to keep all improvements on the leased property insured against fire and other hazards, casualties and contingencies. Said policy shall at all times have a face value in an amount at least equivalent to the maximum insurable value of all improvements on the leased real property. Said insurance policy shall insure the improvements on the leased real property for their replacement value. Said insurance policy shall have a loss payable clause in favor of Landlord and Tenant as their interests may appear. Such insurance shall include "extended coverage" for perils of windstorm, hail, explosion, smoke, etc.

9.1 Tenant acknowledges that Tenant shall insure Tenant's personal property from fire and other casualty at Tenant's sole expense and that Landlord shall have no responsibility to insure the property of Tenant.

10. Liability Insurance. Landlord agrees that he will obtain and keep in full force and effect at all times during the term of this lease at Landlord's expense, a policy of public liability insurance which shall name both Tenant and Landlord as insureds, and which shall insure against legal liability for injuries to persons and/or property arising out of or in anyway connected with the activities, acts or omissions of Tenant and Landlord upon said premises, and against Tenant's contractual liabilities assumed in this Agreement, including, but not limited to, Tenant's obligation to defend, indemnify, and hold Landlord harmless, with limits of not less than \$500,000.00 for injury to any one person, for injury to more than one person in one occurrence, and for damage to property.

11. Indemnity. Tenant agrees to indemnify, defend, and hold Landlord harmless from and against any and all liability, claims, loss, damage, or attorneys fees which may be caused Landlord by reason of Tenant's tenancy, act, or omission hereunder, or by the failure of Tenant to perform that which Tenant is responsible for in keeping the leased premises in good order, condition, and repair, irrespective of Tenant's negligence.

12. Liens. Tenant agrees that it will not cause or permit any lien or other encumbrance to be filed against said premises. In the event any such lien or encumbrance shall be filed against said premises, Landlord shall have the right to pay the same, or any judgment or decree based thereon; and Tenant agrees, on demand, to repay any such amounts paid by Landlord, together with interest at the rate of nine

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percent (9%) per annum thereon from the date of demand for payment until repaid. Notwithstanding any other provision of this paragraph 12, Tenant shall have the right to contest any lien or encumbrance which Tenant believes is not validly owed. Tenant shall not be in default of this Agreement and Landlord shall not have the right to pay such disputed lien or encumbrance provided: (1) Tenant initiates proceedings to dispute such lien or encumbrance within thirty (30) days of the date such lien or encumbrance arises; and, (2) Tenant has placed in escrow sufficient funds to satisfy such lien or encumbrance and all interest, costs and fees that can be assessed on account of such proceeding.

13. Eminent Domain. In case of the condemnation or purchase of all or any substantial part of the premises by any public or private body with the power of condemnation this lease may be terminated, effective on the date possession is taken, by either party hereto on written notice to the other and in that case Tenant shall not be liable for any rent accruing after the termination date. Tenant shall not be entitled to and hereby expressly waives any right to any part of the condemnation award or purchase price.

14. Timber. Tenant shall not cut or remove any timber located on the premises without first obtaining Landlord's prior written consent, which consent may be withheld by Landlord in Landlord's sole discretion.

15. Cranberry Crop. Tenant agrees that Tenant shall be responsible for all expenses with respect to growing the cranberry crop on the premises. Tenant further agrees to: (a) farm and cultivate said cranberry crop and care for the cranberry bogs and cranberry vines in accordance with the best farming practices; (b) fertilize the cranberry crop as and when needed; (c) take all necessary steps to keep the cranberry crop and cranberry vines free of disease and noxious weeds; (d) water the cranberry vines at appropriate times and in appropriate amounts; and, (e) harvest the cranberry crop at the proper time using proper methods of harvest.

16. Default. Time is of the essence with respect to payment and performance under this Lease Agreement. A default shall occur if:

16.1 Tenant fails to perform any obligation imposed by this Lease Agreement and does not correct such failure within ten (10) days after receipt of written notice from Landlord specifying the manner in which Tenant has failed to adhere to any provision of this Lease Agreement.

16.2 Tenant assigns or transfers this lease or sublets any of the premises subject to this lease without Landlord's prior written consent.

16.3 There occurs commencement of any bankruptcy, insolvency or receivership proceedings by or against Tenant or if Tenant becomes insolvent

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In the event of a default, Landlord, at Landlord's option, shall be entitled to immediately terminate the lease and without liability, re-enter and take possession of the leased property, or to pursue any other remedy available to Landlord at law or equity. Whether or not the lease is terminated, Landlord shall be entitled to recover damages from Tenant for any default. Neither the termination of this lease by forfeiture nor the taking or recovery of possession of the leased property shall deprive Landlord from any other action, right, or remedy against Tenant for possession, rent or damages, nor shall any omission by Landlord to enforce any forfeiture, right or remedy to which Landlord may be entitled be deemed a waiver by Landlord of the right to enforce the performance of all terms and conditions of this lease by Tenant. Any property which Tenant leaves on the leased property for more than thirty (30) days after abandonment or termination of the lease shall be deemed to have been abandoned, and Landlord may remove and sell said property at public or private sale as Landlord sees fit, without being liable for damages by reason thereof, and the net proceeds of said sale shall be applied toward the expenses of Landlord and rent and damages as aforesaid, and the balance of such amounts, if any, shall be held for and paid to Tenant. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Landlord under law or at equity.

17. Notice. Any notice to be given pursuant to this Agreement shall be in writing and shall be effective when personally delivered or when mailed, postage prepaid, registered or certified, return receipt requested, addressed to a party at such party's last known address.

18. Quiet Enjoyment. Landlord covenants and agrees to and with Tenant that upon payment by Tenant of the rents herein reserved, and upon the observance and performance of all of the covenants, terms, and conditions on Tenant's part to be observed and performed hereunder, Tenant shall peaceably and quietly hold and enjoy the leased premises for the term hereby demised without hindrance or interruption by Landlord, or any other person or persons, lawfully or equitably claiming by, through or under Landlord, subject, however, to the terms and conditions of this lease.

19. Environmental Hazards. Tenant agrees to properly store and contain any and all materials of an environmentally hazardous nature, which Tenant brings to or maintains on the leased real property. Tenant shall promptly clean up and remove any environmentally hazardous substances which may be released onto the leased property. Tenant agrees to indemnify, defend, and hold Landlord harmless from and against any claims, fines, demands, cause of actions, cleanup costs, attorney fees, penalties or other damages, costs or expenses incurred by Landlord as a result of any environmentally hazardous condition which occurs as a result of Tenant's use or occupancy of the leased property during the term of this lease, or any environmentally hazardous substances released on the leased real property during the term of this lease.

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20. Attorney Fees. In the event any suit or action shall be instituted to enforce any of the provisions of this Lease Agreement, or shall be instituted as a result of this Agreement, or any matters concerning this Agreement, the prevailing party shall be entitled to recover from the other party, in addition to its costs and disbursements allowed by law, a reasonable attorney's fee as may be determined by the court. In the event of the appeal of any such suit or action, the prevailing party shall also be entitled to recover attorney fees on appeal.

21. Integration. This document is the entire, final and complete agreement of the parties relating to the subject matter of this Agreement and supersedes and replaces all written and oral agreements and representations heretofore made or existing by and between the parties or their representatives.

22. Severability. Invalidation of any provision of this Agreement by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.

23. Governing Law and Venue. This Agreement shall be governed by the laws of the state of Oregon. The parties agree that all disputes relating to this Agreement shall be tried before the courts of Oregon to the exclusion of all courts which might have jurisdiction apart from this provision. Venue in any suit or action arising hereunder shall be in the courts of Curry County, Oregon.

24. Modification and Waiver. No change or modification of this Agreement shall be valid or binding upon the parties, nor shall any waiver of any term or condition hereof be deemed a waiver of such term or condition in the future, unless such change, modification or waiver shall be in writing signed by all the parties to this Agreement.

25. Number and Gender; Parties. As used in this Agreement, the singular shall include the plural and the plural the singular and the masculine, feminine, and neuter genders shall each include the others as the context requires.

26. Legal Effect and Benefit. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns, and the parties hereto agree for themselves and their heirs, personal representatives, successors and assigns to execute any instruments in writing which may be necessary or proper in carrying out the purposes of this Agreement.

27. Legal Representation. The parties hereto acknowledge that the law firm of Lesan & Finneran has represented only Landlord in all aspects of this transaction including, but not limited to, the preparation of this Agreement.

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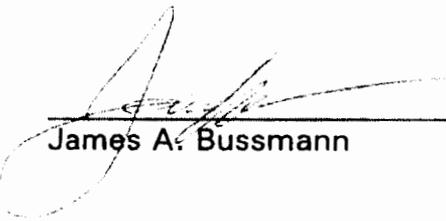
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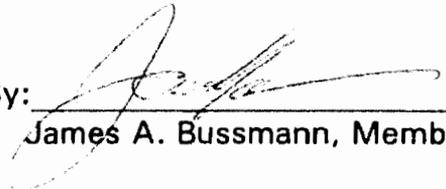
IN WITNESS WHEREOF, the parties have executed this Agreement on the date and year first above written.

LANDLORD:

TENANT:

  
\_\_\_\_\_  
James A. Bussmann

JWB Cranberries LLC, an Oregon  
Limited Liability Company

By:   
\_\_\_\_\_  
James A. Bussmann, Member

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