

W.14.c.



Memorandum Date: September 26, 2006
Order Date: October 4, 2006

TO: Board of County Commissioners

DEPARTMENT: Public Works Dept./Land Management Division

PRESENTED BY: BILL VANVACTOR, COUNTY ADMINISTRATOR
KENT HOWE, PLANNING DIRECTOR

AGENDA ITEM TITLE: IN THE MATTER OF CONSIDERING A BALLOT MEASURE 37 CLAIM AND DECIDING WHETHER TO MODIFY, REMOVE OR NOT APPLY RESTRICTIVE LAND USE REGULATIONS IN LIEU OF PROVIDING JUST COMPENSATION (PA05-6834, WILBUR34)

I. MOTION

Move to request additional information regarding the alleged reduction in value.

II. AGENDA ITEM SUMMARY

Shall the Board of County Commissioners compensate an applicant under Ballot Measure 37 and LC 2.700 through 2.770 for the reduction in fair market value of the affected property interest resulting from enactment or enforcement of restrictive land use regulations or modify, remove, or discontinue application of those land use regulations to the subject property to allow the Don Wilbur Limited Partnership to use the property as allowed at the time it acquired an interest in the property?

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

This item was scheduled for a hearing on August 2, 2006. When the applicant received a copy of the preliminary staff report, he placed this claim on hold in order to submit additional information. On September 12, 2006, additional information regarding the Limited Partnership was submitted.

Applicant: Don Wilbur Limited Partnership

Current Owner: Don Wilbur Limited Partnership

Agent: Lee Kersten

Map and Tax lot: 17-08-18 #600; 17-09-13 #301

VI. RECOMMENDATION

The County Administrator recommends the Board request additional information regarding the alleged reduction in value.

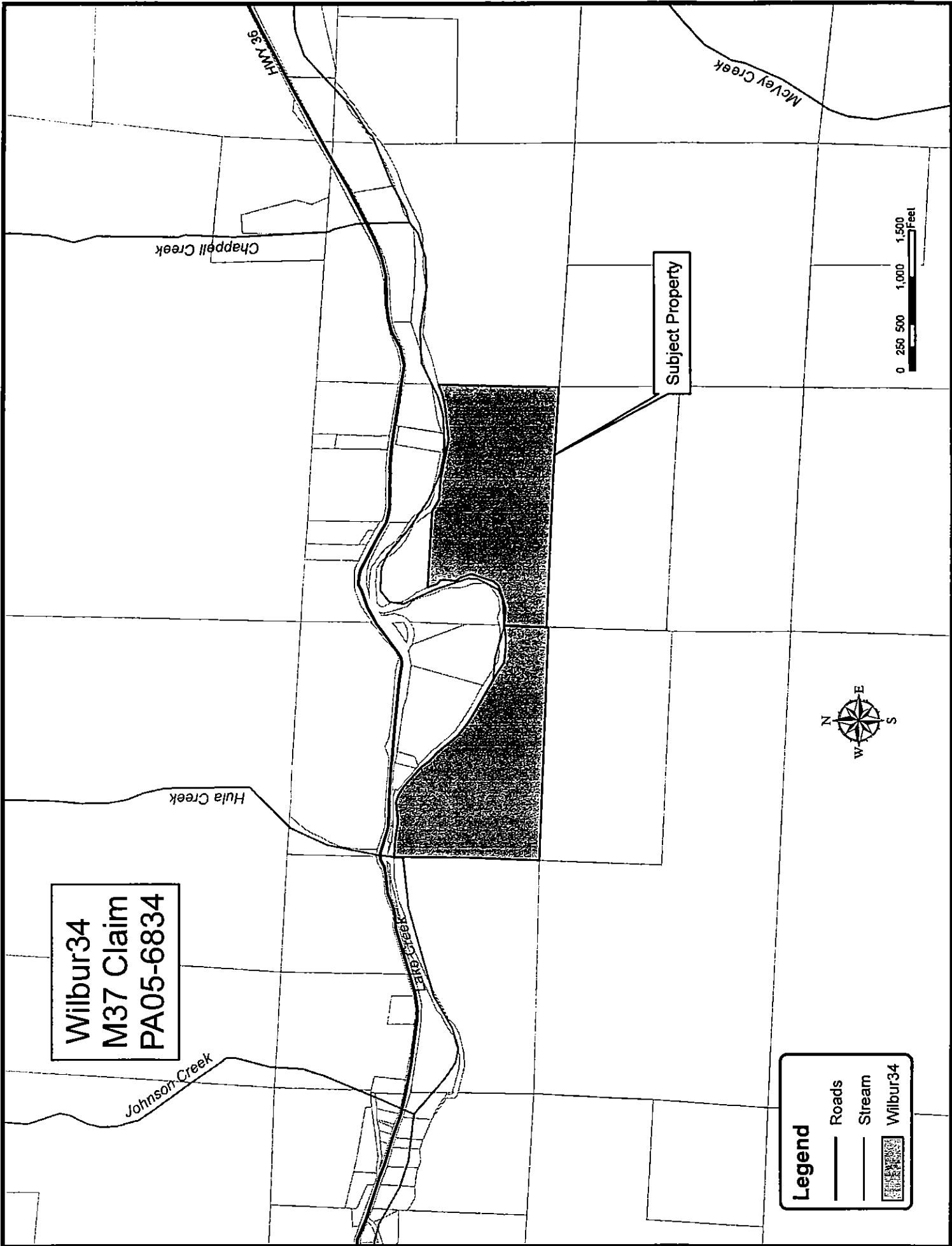
VII. FOLLOW-UP

If an order is adopted, it will be recorded.

VIII. ATTACHMENTS

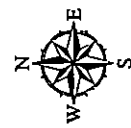
This cover memo prepared for the Board hearing does not contain the entire submittal. The entire submittal is contained in a notebook labeled "PA05-6834", available in the County Commissioners Office. The portions of the submittal included with this memo are identified below:

- Vicinity map.
- Application form.
- Broker's Opinion of Value for Wilbur 33/PA05-6833.
- Limited Partnership Agreement.
- WD 91825 dated July 10, 1964.
- BS 7551 dated Dec. 11, 1967.
- WD 2001-029598 dated May 16, 2001.
- Information submitted on September 12, 2006.
- Information submitted on September 20, 2006.



Wilbur34
M37 Claim
PA05-6834

Subject Property



Legend

- Roads
- Stream
- Wilbur34

PA056834

Measure 37 Claim Number: M37-

Application for Claims Under LC 2.700 through 2.770

Due to Regulatory Reduction of Property Value Under Provisions Added to ORS Chapter 197 by BM37

Note: This completed form together with the referenced supporting documentation and application fee must be submitted to the Lane County Land Management Division, 125 East 8th Avenue, Eugene, Or., 97401 for all claims subject to the provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004), to be considered for compensation under LC 2.700 through 2.770. In all cases, the applicant has the burden of demonstrating, with competent evidence, that all applicable criteria are met and the applicant would be entitled to compensation if the land use regulation continues to apply. Use additional paper, if necessary.

1. Applicant/ Agent

Don Wilbur Limited Partnership P.O. Box 40, Deadwood, Or. 97430 541-964-3345
 Applicant Name (Please Print) Mailing Address Phone

Lee Keesten/ Jim Mann 260 Country Club R, Ste. 210, Eugene, Or 97401 345-4312
 Agent Name (Please Print) Mailing Address Phone

2. Property Owner

Please provide the Name, Mailing Address and telephone number of all property owners of record holding interest in the property that is the subject of this application. Include a complete listing of all lien holders, trustees, renters, lessees or anyone with an interest in the property and describe the ownership interest.

Don Wilbur Limited Partnership same as above. _____
 Property Owner Name (Please Print) Mailing Address Phone

 Property Owner Name (Please Print) Mailing Address Phone

3. Legal Description

Please provide an accurate legal description, tax account number(s), map, street address and location of all private real properties that are the subject of this application.

Assessor Map & Tax Lot 17-09-13 00 00301 + contiguous parcel 17-08-18 00 00600

Street Address Deadwood Legal Description Attached yes

4. Identification of Imposed Land Use Regulation

Please identify the Lane Code section or other land use regulation imposed on the private real property that is alleged to restrict the use of the subject property in a manner that reduces the fair market value. Include the date the regulation was first adopted, enforced or applied to the subject property and a written statement addressing all the criteria in LC 2.740(1).

See attached

5. Title Report

Please attach a Preliminary Title Report showing title history and continuous ownership traced to the earliest family member ownership, the date of current owner(s) acquisition and all current interests of record for the subject property, issued within 30 days of the application submittal. Provide copies of relevant deeds.

6. Appraisal/Regulatory Effect

Please provide one original, signed appraisal prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon addressing the requirements of provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004) and indicating the amount of the alleged reduction in fair market value by showing the difference in the fair market value of the property before and after the application of the challenged regulations as of the date the owner makes written demand for compensation. Include all of the supporting methodology, assumptions and calculations affecting the appraisal.

To be provided upon request

7. Leases, Covenants, Conditions and Restrictions

Please provide copies of any leases or covenants, conditions and restrictions applicable to the subject property.

none

8. Identification of Relief Sought

Please specifically indicate what relief is being sought, either a monetary value of the claim describing the reduction in fair market value of the property or the specific use authorization sought in any waiver of the land use regulation.

erect a residence on each identified parcel

Parcel # 1 (acquired 1957)

Parcel # 2 (acquired 1964)

I (we) have completed all of the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) authorized to submit this application on behalf of all those with an interest in the property and all the owner(s) agree to this claim as evidenced by the signature of those owner(s) below. Include additional signatures, as necessary.

Entry by County or its designee upon the subject property is authorized by the owner(s) and the owner(s) consent to the application for claims under provisions added to ORS Chapter 197 by Ballot Measure 37 (November 2, 2004).

DON Wilbur Limited Partnership

[Signature]
Owner(s) Signature

12-15-05
Date

[Signature]
Applicant/Agent Signature

12-15-05
Date

The following contacts are provided to assist you in finding the necessary information for this application.
For zoning and land use information, please contact the Land Management Division at 682-3577.
This phone contact is a message line. Please leave a message and a Planner will return your call.
For deeds and records information, please contact Lane County Deeds and Records at 682-3654.



TR HUNTER REAL ESTATE
1749 Hwy. 101 P.O. Box 3104 Florence, OR 97439

Lane County Land Management Division
125 E. Eighth Avenue
Eugene, OR 97401

May 10, 2006

Re: PA 06-6833, Wilbur33
Map lots 17-09-15-00 #03000, 17-09-16-00 #00401, and 17-09-16-00 #00700

Dear Lane County:

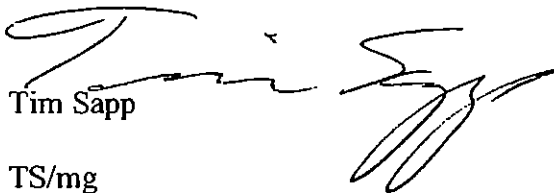
I am the Owner and Principal Broker of TR Hunter Real Estate in Florence, Oregon. I have been a licensed broker in the State of Oregon and have dealt with property in the Florence and mid-coastal area for 15 years. Following is my Broker's Price Opinion of the subject property.

This is a very private, approximately 100-acre parcel containing about 2 miles of Lake Creek frontage. The current market value for this property is a total of \$250,000.

Without the challenged land use regulations, and under this BM 37 Claim, this property would be able to be developed as 10-acre home sites. As home sites, my opinion of their value is \$150,000 each, for a total of \$1,500,000. The difference between these two values is \$1,250,000, which is the amount that the challenged land use regulation has reduced the fair market value of the subject property.

Please do not hesitate to contact me if you have any questions.

Thank you,


Tim Sapp
TS/mg

LIMITED PARTNERSHIP AGREEMENT

OF

DON WILBUR, LIMITED PARTNERSHIP

This Agreement is made and entered into on the 31 day of December, 1989 by:

GENERAL PARTNER

DON WILBUR, INC.,
an Oregon corporation

LIMITED PARTNERS

SALLY J. OWENS
CHRISTINE A. WILBUR
NANCY J. WILBUR
PATSY L. MCCRAY
JOHNETTE ROANE
DON WILBUR

COPY

In consideration of the mutual covenants and conditions contained herein, it is hereby agreed by and between the parties hereto as follows:

1. Agreement to Form and Name of Limited Partnership.

The General Partner and the Limited Partners (collectively the "partners") hereby form a limited partnership (the "Partnership") pursuant to the provisions of the Oregon Uniform Limited Partnership Act. The name under which this Partnership is conducted is DON WILBUR, Limited Partnership.

2. Business.

The primary business of the Partnership shall be the ownership and operation of the properties, more particularly described on the attached Exhibit "A".

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3. Place of Business.

The principal place of business of the Partnership shall be located at 15120 Highway 36, Box 4, Deadwood Oregon, or at such other place or places as the General Partner may from time to time determine after giving written notice of any such change to the Limited Partners.

4. Names and Addresses of the General Partner and the Limited Partners.

4.1 General Partner. The name and address of the General Partner is as follows:

Don Wilbur, Inc.	15120 Highway 36, Box 4 Deadwood, Oregon 97430
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4.2 Limited Partners. The names and addresses of the Limited Partners are as follows:

Sally J. Owens	6040 Culver Drive, SE Salem, Oregon 97301
Christine A. Wilbur	15120 Highway 36, Box 4 Deadwood, Oregon 97430
Nancy J. Wilbur	15120 Highway 36, Box 4 Deadwood, Oregon 97430
Patsy L. McCray	15120 Highway 36, Box 4 Deadwood, Oregon 97430
Johnnette Roane	05338 Viola Florence, Oregon 97439
Don Wilbur	15120 Highway 36, Box 4 Deadwood, Oregon 97430

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5. Registered Agent and Office.

The Partnership, and the General Partner thereof, designate DON WILBUR as registered agent and designate 15120 Highway 36, Box 4, Deadwood, Oregon as the registered office of the Partnership. The General Partner designates the initial registered agent and any successor registered agent as his personal registered agent and attorney upon whom any process, notice or demand which arises out of the conduct of the Partnership affairs which is required or permitted by law to be served upon a General Partner may be served.

6. Certificates.

6.1 Execution of Certificates. Concurrently with the execution hereof, and upon any amendment of the matters set forth in the certificate, the General Partner will cause to be executed and acknowledged a Certificate of Limited Partnership, pursuant to the provisions of the Oregon Uniform Limited Partnership Act, which shall be filed by the General Partner in the office of the Corporation Commissioner, Salem, Oregon, if and as required by Oregon law.

6.2 Power of Attorney. The Limited Partners hereby irrevocably constitute and appoint the General Partner as their true and lawful attorney, in his or her name, place and stead, to make, execute, acknowledge, deliver, and file the following:

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- (a) The original and any modification or amendment to the Certificate of Limited Partnership, and any other instrument that may be required by law to be recorded or filed by the Partnership; and
- (b) All documents that may be required to effectuate the dissolution and termination of the Partnership.

In the event of any conflict between the provisions of this Limited Partnership Agreement or any amendment to it and any document executed, acknowledged, sworn to, or filed by the General Partner under this power of attorney, the Limited Partnership Agreement and its amendments shall govern.

6.3 Execution of Amended Certificate. The Limited Partners agree to execute and acknowledge as requested by the General Partner, such Certificates of Limited Partnership, any and all amendments thereof, and other documents as may be required from time to time in order to reflect any change in the partners or in the Limited Partnership Agreement agreed upon by the partners as hereinafter set forth.

7. Term of Limited Partnership.

The Partnership shall commence as of the date of filing of the Certificate of Limited Partnership as provided for in Paragraph 6 hereof, and shall continue until five (5) years after the death of DON WILBUR or the expiration of twenty-five (25) years, whichever shall first occur, or until earlier dissolved and terminated in accordance with the provisions of this Agreement.

No limited partner shall have the right to withdraw from the Limited Partnership prior to termination of the Limited Partnership.

8. Capital Contributions.

The initial capital contributions of the partners shall be as follows:

GENERAL PARTNER

The real property and other assets described on the attached Exhibit A.

LIMITED PARTNERS

The property and assets described on the attached Exhibit B.

9. Capital Accounts.

An individual capital account shall be maintained for each partner. Each partner's capital account shall be credited with the cash and the adjusted basis of property contributed to the Partnership (net of liabilities assumed by the Partnership and liabilities to which such contributed property is subject), and his or her distributive share of Partnership income (including income exempt from tax) and gain (or item thereof), and shall be debited with the cash and the Partnership's adjusted basis of property distributed to him or her (net of liabilities assumed by such partner and liabilities to which such distributed property is subject), his or her distributive share of Partnership loss and deduction (or item thereof), and his or her distributive

share of expenditures of the Partnership described in Section 705(a)(2)(B) of the Internal Revenue Code (which share shall be determined in accordance with the partner's interest in the Partnership).

10. Division of Income and Loss.

All items of income, loss, deduction and credit shall be divided between the partners as follows:

<u>General Partner</u>		<u>Limited Partners</u>	
DON WILBUR, INC.	10.0 %	SALLY J. OWENS	7.9 %
		CHRISTINE A. WILBUR	7.9 %
		NANCY J. WILBUR	7.9 %
		PATSY L. MCCRAY	7.9 %
		JOHNETTE ROANE	7.9 %
		DON WILBUR	50.5 %
Total:	10.0 %		90.0 %

11. Cash Distributions.

The General Partner shall determine when and in what amounts cash distributions to the partners shall be made. The partners anticipate that cash may be reinvested in other properties, or to create reserves for maintenance or other extraordinary expenses.

12. Accounting and Banking.

12.1 Books and Records. The General Partner shall maintain or cause to be maintained at all times correct and proper books, records, reports, and accounts in which shall be entered fully and accurately all transactions of the Partnership. All books, records, reports and accounts of the Partnership shall

be maintained by the General Partner at the place of business stated herein. All such books of the Partnership shall be open to inspection by the Limited Partners or their duly authorized representative, at any reasonable time during business hours.

12.2 Accounting Method and Fiscal Year. The Partnership books shall be kept on the cash basis for income tax purposes. The Partnership books shall be closed and balanced at the end of each calendar year and the General Partner shall be responsible for filing all tax returns required of the Partnership on a timely basis.

12.3 Audit. Any partner shall have the right at any time to cause an audit of the Partnership books and records by an independent certified public accountant. Any such audit shall be at the expense of the partner requesting the audit.

13. Administrative Provisions.

During the continuance of the Partnership the rights and liabilities of the General Partner and the Limited Partners shall be as follows:

13.1 Management.

- (a) Subject to the provisions of Paragraph 13.2 below, the General Partner shall have exclusive management and control over the business of the Partnership, including the power to assign duties, to sign all contracts, notes, and deeds of trust, grant deeds, agreements for sale, escrow

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instructions, and any other instruments in connection with the Partnership business activities.

(b) Without limiting the generality of the foregoing, the powers of the General Partner shall include the right:

- (1) to obtain financing for the Partnership properties and to repay in whole or in part, refinance, increase, modify, or extend any obligation to any lender for the properties.
- (2) to sell, buy, exchange, lease and convey the Partnership's property.
- (3) to cause the Partnership to do business under such name or names as the General Partner shall determine.
- (4) to assume and exercise all responsibilities imposed on the General Partner by the Uniform Limited Partnership Act of the State of Oregon.

13.2 Rights of Limited Partners. The Limited Partners shall have no right to take part in the management or control of the Partnership business or to transact any business on its behalf. Notwithstanding the foregoing, the General Partner without prior written approval of the Limited Partners, shall not:

- (a) amend this Limited Partnership Agreement;
- (b) except as specifically described in the paragraph headed "Restrictions on Disposition of Partnership Interests" admit any other person, firm, or corporation in her place as the general partner;
- (c) do any act in contravention of the Certificate of Limited Partnership;

- (d) do any act which would make it impossible to carry on the ordinary business of the Partnership;
- (e) confess a judgment against the Partnership;
- (f) use Partnership property for other than a Partnership purpose; or
- (g) terminate the Partnership.

13.4 Time Devoted to partnership Business. The General Partner shall devote such time and attention to the business and affairs of the Partnership as is reasonably necessary.

14. Dissolution and Termination of Partnership.

14.1 Events of Termination. The Partnership shall continue for a period ending five (5) years after the death of DON WILBUR, or a period of twenty-five (25) years, whichever is shorter, unless any of the following occur, in which event the Partnership shall dissolve:

- (a) The bankruptcy of the General Partner; or
- (b) all of the real property and all other assets of the Partnership are sold or disposed of; or
- (c) the partners mutually agree to terminate the Partnership.

14.2 Manner of Dissolution. Upon dissolution of the Partnership:

- (a) The affairs of the Partnership shall be wound up and terminated under the direction of the General Partner. The Partnership shall engage in no further

business other than as may be necessary to wind up the business and distribute the Partnership assets. The liquidation of any real property owned by the Partnership shall be carried on in an orderly fashion over a reasonable period of time according to established real estate practices.

- (b) The General Partner shall give notice of dissolution to all partners at their last known address. Said notice shall state the event of dissolution and the manner in which the debts of the Partnership are to be paid.
- (c) Distributions in liquidation may be made in cash or in kind, or partly in cash and partly in kind. Distributions in kind shall be made pursuant to an agreement in writing between the General Partner and the Limited Partners. The fair market value shall be placed on any property distributed in kind to the partners. Fair market value shall be determined by agreement of the partners, or in the absence of agreement, by an independent appraiser agreeable to the Partners. Distribution in kind shall be subject to reasonable conditions and restrictions which the General Partner deems necessary or desirable in order (i) to preserve the value of the property so distributed; (ii) to preserve the value of the remaining Partnership property, and (iii) to satisfy the requirements of any creditors of the Partnership. The partner receiving property by distribution in kind shall be responsible for arranging for the release of any Partnership loan with respect to such property.
- (d) The income and losses of the business during the period of dissolution shall be allocated between the partners.
- (e) The proceeds from the liquidation of Partnership assets shall be applied according to the following order of priority:

- (1) The expenses of liquidation and the debts of the Partnership, other than debts owing to the partners, shall be paid;
- (2) The General Partner shall set up any reserves which it may reasonably deem necessary for any contingent or unforeseen liabilities or obligations of the Partnership other than to the partners as agreed upon by the partners;
- (3) The balance of the Limited Partners' capital account, shall be paid to the Limited Partners if it has not previously been returned in full;
- (4) The balance of the General Partner's capital account shall be paid to the General Partner if it has not previously been returned in full;
- (5) The balance of the Partnership assets, if any, shall be distributed to the General Partner and the Limited Partners in the ratio of their respective shares of profit and loss, as set forth in Paragraph 10.

15. Restrictions on Disposition of Partnership Interests.

No partner, whether general or limited, may dispose of his or her interest in the Partnership except in accordance with the provisions of this paragraph, or an agreement signed by all parties hereto.

15.1 Buying and Selling of Partnership Interest Other Than Upon Death. During the original term of this Agreement, no partner shall have the right to withdraw from the Partnership; it

is expressly agreed and understood, that the parties intend for the Partnership to continue for its original term in order to fulfill the partners' expectations with respect to the development and investment return in the Partnership property. Accordingly, in the event that any partner shall attempt to transfer or assign his or her interest in this Partnership, such attempted transfer shall be void and of no effect. In the event that the Partnership is terminated by reason of a wrongful transfer prior to the expiration of the term of this Agreement, then the partner wrongfully transferring his or her interest shall be responsible for all costs of termination, including legal, accounting, costs of refinancing and real property transfer fees, in addition to any other actual damages sustained by the Partnership. Further, the remaining partners shall have the right to purchase the interest of the partner who caused the termination of the Partnership, upon the terms and conditions set forth below. However, the remaining partners shall be under no obligation to purchase such interest and may elect to treat the attempted transfer as null and void, unless otherwise agreed by the General Partner and a majority of the Limited Partners.

15.2 Purchase Price. In the event that a party's interest in the Partnership is purchased by the remaining parties, and the parties do not otherwise agree upon a purchase price, the purchase price shall be determined as follows:

- (a) The withdrawing partner shall designate one independent MAI appraiser and the Partnership shall designate another independent MAI appraiser with each party responsible for the costs of the respective appraiser. Each appraiser shall appraise the Partnership property and give a written opinion as to its value, and the average of the two values shall control.
- (b) In the event of a dispute in the interpretation of this provision, the arbitration provisions of paragraph 17 shall apply.
- (c) All appraisal costs shall be paid by the withdrawing partner.

15.3 Year and Method of Valuation. The proper year and method of value to be used in determining the purchase price shall be the net fair market value as determined above for the calendar year in which the first payment under paragraph 15.5 is to be made.

15.4 Characterization of Payments. It is the intention of the parties that all amounts payable by the Partnership under this agreement to a withdrawing partner or to the successor in interest to a deceased partner shall constitute payment for the interest in Partnership property. The payment shall be considered a distribution of the Partnership property. The payment shall be considered a distribution of the Partnership property under Code Section 736(b) of the Internal Revenue Code of 1954, as amended, and not a payment of income under Section 736(a) of the Code.

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15.5 Terms of Payment of Withdrawing or deceased

Partner. When a partner withdraws from the Partnership or dies, and the Partnership is continued by the remaining partners, payment for the value of the withdrawing partner's interest in the Partnership, as determined under paragraph 15.2, shall be made by the Partnership as follows:

- (a) Ten percent (10%) as a down payment within three months after date of withdrawal;
- (b) The balance shall be paid in three equal annual installments, including interest, the first such installment being paid one year after the down payment and the remaining payments being made on the same day in the two succeeding years. The balance may be prepaid at any time.
- (c) All deferred balances shall bear interest at 10% per annum from the date of the first payment.

If the Partnership is terminated, each partner shall be entitled to his or her share of the net proceeds upon dissolution when and as such proceeds become available for distribution.

15.6 Johnnette Roane's Interests. The foregoing notwithstanding, to the extent the Agreement between JOHNNETTE ROANE as Optionor and SALLY J. OWENS, CHRISTINE A. WILBUR, NANCY J. WILBUR and PATSY L. MCCRAY is applicable, the terms of that Agreement shall prevail over the terms of this Paragraph 15.

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16. Limitation of Liability.

The General Partner shall not be liable to the Limited Partners because of any act or failure to act if the act or omission is within the scope of the authority conferred on the General Partner by this Agreement or by law and does not constitute malfeasance or misfeasance.

17. Arbitration.

In the event of any difference or dispute arising between the parties to this Agreement involving the interpretation of any of the terms and provisions of this agreement, such question shall be determined by arbitration. All such questions shall be submitted for arbitration under the authority and auspices of the American Arbitration Association, and in accordance with the rules and regulations of arbitration established by said association, and pursuant to ORS 33.210- 33.340. Arbitration shall be held in Eugene, Oregon unless otherwise mutually agreed by the parties.

18. General.

18.1 Notice. All notices given pursuant to this Agreement shall be in writing and shall be effective either upon personal delivery or forty-eight (48) hours after deposit in the United States mail if sent by certified mail, return receipt requested, addressed to the General Partner, or to the Limited Partners at their last known address.

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18.2 Binding Effect. This Agreement shall be binding upon each of the partners and their successors, assigns, personal representatives, heirs, and legatees.

18.3 Applicable Law. This Agreement and the rights of the parties hereunder shall be interpreted in accordance with the Laws of the state of Oregon.

18.4 Relationship of Partners. The partners shall be deemed to be partners only with respect to this Agreement and the Partnership's property referred to herein, and nothing contained herein shall render any partner liable for any debts or obligations, unrelated to the Partnership, of the other partners, nor shall any partner hereby be constituted the agent of any other partner, except to the limited extent herein specifically permitted and as may be hereinafter agreed upon the the partners.

18.5 Amendments. This Agreement may be amended at any time and from time to time, but any amendment must be in writing and signed by each party who is then a partner.

18.6 Entire Agreement. This instrument contains the entire agreement of the parties relating to the Subject matter hereof. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written modification signed by the party to be charged.

18.7 Severability. The provisions of this Agreement are intended to be severable. If any term or provision of this

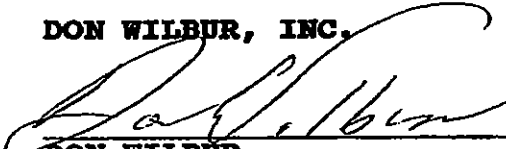
agreement is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

18.8 Further Assurances. All parties agree to execute all such documents and instruments as may be required in order to conduct the business of the Partnership and to effectuate the purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto have signed this Limited Partnership Agreement as of the date herein above set forth.

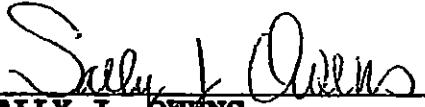
GENERAL PARTNER:

DON WILBUR, INC.



DON WILBUR

LIMITED PARTNERS:




SALLY J. OWENS



CHRISTINE A. WILBUR




NANCY J. WILBUR



PATSY I. MCCRAY



JOHNETTE ROANE



DON WILBUR

~~91625~~
WARRANTY DEED

RUTH A. TAYLOR, formerly RUTH A. NIELSEN, and WILLARD D. TAYLOR, husband and wife, hereinafter called Grantors, convey to DONALD D. WILBUR and DOROTHY M. WILBUR, husband and wife, all that real property situated in Lane County, State of Oregon, described as follows:

West half of the Northeast quarter and the West half of the Southeast quarter of Section 9, Township 17 South Range 9 West of the Willamette Meridian, Lane County, Oregon.

Beginning at the Northeast corner of Section 13, Township 17 South Range 9 West of the Willamette Meridian, and run thence South 1° 03' East 1153.7 feet, along the township line to an iron pipe on the South right of way line of the Siuslaw Highway said point being the true point of beginning, thence in a Southwesterly direction following the Southerly right of way line of the Siuslaw Highway around a 28° curve the long chord of which bears South 81° 30' West 236.87 feet, thence South 23° 47 1/2' East 607.74 feet to a point on the East line of Section 13, Township 17 South Range 9 West of the Willamette Meridian, thence North 1° 03' West 591.21 feet to the point of beginning, containing 1.5 acres, more or less, in Lane County, Oregon.

All of Government Lot 2, and all of the Southeast quarter of the Northwest quarter of Section 18, Township 17 South Range 8 West of the Willamette Meridian, except the portion of the Southeast quarter of the Northwest quarter lying North of the center line of Lake Creek also the following described premises: Beginning at the Northwest corner of Section 18, Township 17 South Range 8 West of the Willamette Meridian, thence South 1° 03' East 1153.7 feet, along the township line to an iron pipe on the South right of way line of the Siuslaw Highway, said point being the true point of beginning, thence in a Northeasterly direction following the right of way line of the Siuslaw Highway around a 28° curve to the left--the long chord of which is North 29° 47 1/2' East 198.1 feet thence East 50 feet to a point in the center of Lake Creek, thence South 29° 00' East 373.8 feet following the center of Lake Creek to a point on the South line of Lot 1 in said Section 18, Township 17 South Range 8 West of the Willamette Meridian, thence West 326.8 feet along the South line of said Lot 1 to the Southwest corner thereof, thence North 1° 03' West 155.1 feet along the West line of said Section 18, to the point of beginning, Lane County, Oregon. (Total area--83.46 acres)



The East half of the Southwest quarter of the Northeast quarter and the West half of the Southeast quarter of the Northeast quarter of Section 16, Township 17 South Range 9 West of the Willamette Meridian, in Lane County, Oregon, containing 40 acres.

The East one-half (E 1/2) of the Southeast quarter (SE 1/4) of the Northeast quarter (NE 1/4) of Section 16, in Township 17 South Range 9 West of the Willamette Meridian, containing 20 acres of land, more or less, in Lane County, Oregon.

EXCEPT FROM THE ABOVE THE following described property:

Beginning at the brass cap marking the one quarter corner between sections 15 and 16, Township 17 South Range 9 West of the Willamette Meridian, thence North $0^{\circ} 07'$ West 579.71 feet along the section line common to said sections 15 and 16 to the South right of way line of the Siuslaw Highway, (60 feet wide) the true point of beginning, thence S. $0^{\circ} 07'$ East 158.52 feet along said section line to the center of Lake Creek, thence, Southwesterly along the said center of Lake Creek to a point that bears South $78^{\circ} 39'$ W. 199.32 feet from the last described point; thence, N. $0^{\circ} 07'$ W. 155.46 feet to the South right of way line of the Siuslaw Highway (60 feet wide) thence N. $77^{\circ} 47' 22''$ E. 200.00 feet along the said South right of way line of the Siuslaw Highway to the true point of beginning, all in Lane County, Oregon.

AND FURTHER EXCEPTING the following described property:

Beginning at a point on the Southerly right-of-way line of the Siuslaw Highway (US 36), said point being 579.71 Feet North $0^{\circ} 07'$ West and 200.0 feet South $77^{\circ} 47' 22''$ West from the one-quarter corner on the East line of Section 16, Township 17 South, Range 9 West of the Willamette Meridian: Running thence South $0^{\circ} 07'$ East 155.46 feet to the centerline of Lake Creek; thence along the centerline of said Lake Creek South $69^{\circ} 59'$ West 721.18 feet to its intersection with the centerline of Green Creek; thence along the centerline of said Green Creek North $52^{\circ} 50'$ West 279.52 feet to the centerline of Green Creek Bridge and centerline of the Siuslaw Highway as travelled; thence along centerline of said Siuslaw Highway on a curve to the left the chord of which bears South $32^{\circ} 47' 45''$ West 64.89 feet; thence North $51^{\circ} 53' 45''$ West 506.12 feet; thence North $1^{\circ} 20'$ West 216.34 feet; thence North $71^{\circ} 10''$ East 137.47 feet; thence North $59^{\circ} 34' 45''$ East 103.12 feet to a point on the easterly bank of Green Creek; thence South $41^{\circ} 00'$ East 577.77 feet to a point on the northerly right-of-way of the Siuslaw Highway; thence South $12^{\circ} 12' 38''$ East 60.0 feet to a point on the Southerly right-of-way of the Siuslaw

of the Siuslaw Highway North 77° 47' 22" East
744.60 feet to the point of beginning, containing
14.33 acres more or less, in Lane County, Oregon.
Excepting that portion of the Siuslaw Highway and
the State Secondary Highway as said highways run
through the foregoing described property.

and covenant that Grantors are the owners of the above-described
property free of all encumbrances except easements, restrictions
and conditions of record, and will warrant and defend the same
against all persons who may lawfully claim the same, except as
shown above.

DATED this 10 day of ^{July}~~June~~, 1964.

Ruth A. Taylor

Willard D. Taylor

STATE OF OREGON)
)
COUNTY OF Marion) ss.
July
10, 1964.

Personally appeared the above-named RUTH A. TAYLOR,
formerly RUTH A. NIELSEN, and WILLARD D. TAYLOR, husband and
wife, and acknowledged the foregoing instrument to be their
voluntary act. Before me:

[Signature]
Notary Public for Oregon
My Commission Expires:

July 9, 1965

Handwritten mark

State of Oregon,
County of Lane—ss.

I, Ina Randolph, Director of the
Department of Records and Elections,
in and for the said County, do hereby
certify that the within instrument was
received for record at

1955 FEB 10 P. M. 50

Handwritten initials

Lane County OFFICIAL Records.

INA RANDOLPH, Director of the
Department of Records & Elections.

BY *[Signature]* Deputy

C29.081-05

7551
BARGAIN & SALE DEED

Misc

FOR VALUE RECEIVED

DOROTHY J. WILBUR

rein referred to as grantors, hereby grant, bargain, sell and convey unto DONALD D. WILBUR

herein referred to as grantees, the following described real property, with tenements, hereditaments and appurtenances, to wit: Schedule attached

The true and actual consideration for this transfer is \$ property settlement.
The foregoing recital of consideration is true as I verily believe.

Dated December 11 19 67

Dorothy J. Wilbur

(Seal)

(Seal)

(Seal)

(Seal)

STATE OF OREGON, County of Lane, ss.

Personally appeared the above named

DOROTHY J. WILBUR

foregoing instrument to be her voluntary act and deed. Before me:

December A.D. 1967

[Signature]
Notary Public for Oregon



PAINT
as Oregon
ALL

7551

Description for Our Policy No. CT-85099

TRACT 1: Beginning at a point in the South line of the Northwest 1/4 of Section 27, Township 17 South, Range 10 West of the Willamette Meridian, 6.61 chains West of the intersection with the westerly line of the County Road being at the Southwest corner of the tract of land conveyed to John H. Sullivan and wife by deed recorded in Book 143, Page 476, Lane County Oregon Deed Records, in Lane County, Oregon; and running thence North 37° 30' East along the line of said Sullivan tract 17.90 chains to the most Northerly corner thereof; thence North 47° 30' West 75.0 links to the most Westerly corner of the tract of four acres conveyed to Cyrus Sullivan by deed recorded in Book 160, Page 115, Lane County Oregon Deed Records, in Lane County, Oregon; thence North 22° 3' East 7.41 chains to the most Northerly corner of the one acre tract conveyed to Eva C. Goehrs by deed recorded in Book 153, Page 477, Lane County Oregon Deed Records, in Lane County, Oregon; thence South 64° 20' East 6.00 chains to the line of said road; thence Northeasterly along the line of said road to the most Southerly corner of the tract of 18 acres conveyed by deed to Frank P. and Minnie L. Spencer, recorded in Book 114, Page 501, Lane County Oregon Deed Records in Lane County, Oregon; thence along the Southerly line of said Spencer tract, North 30° 0' West about 700 feet; thence North 60° 0' West about 324 feet; thence West about 76 feet to the West line of the Northeast 1/4 of the Northwest 1/4 of said Section 27; thence South on said West line about 14.70 chains to the Southwest corner of said subdivision; thence West 20.0 chains to the Westline of said Section 27; thence South on the Section line, 20.0 chains; and thence East about 11 chains to the place of beginning, in Lane County, Oregon.

ALSO: All that portion of Lot 3, of Section 22, of said Township 17 South, Range 10 West of the Willamette Meridian, lying West of the railroad right of way, in Lane County, Oregon.

Sancty J. Hillis

[Signature]

Description for Our Policy No. CT-85099

TRACT 3: Beginning at the brass cap which is the witness corner for the right bank of the Siuslaw River on the East line of Section 30, Township 17 South, Range 9 West of the Willamette Meridian; thence North 1° 10' East 19.7 feet to the center line of the Mapleton branch of the Southern Pacific Company's railroad right of way; thence North 85° 12' West along the center line of said railroad 1270.8 feet; thence North 72° 43' West 286.0 feet; thence North 64° 53' West 1725.65 feet along the center line of said railroad; thence North 26° 04' East 59.8 feet to the northerly right of way line of said railroad, which is the place of beginning and running thence North 26° 26' East 357.9 feet to the southerly right of way line for the Siuslaw Highway; thence North 58° 04' West along said southerly right of way line 627.2 feet, more or less, to the center of Count Creek; thence approximately South 41° West along the center of Count Creek 435.7 feet, more or less, to the northerly right of way line of said Southern Pacific railroad; thence South 64° 53' East along said right of way line 734.0 feet, more or less, to the point of beginning, all in Section 30, Township 17 South, Range 9 West of the Willamette Meridian, in Lane County, Oregon.

ALSO: Beginning at the brass cap which is the witness corner to the meander corner for the right bank of the Siuslaw River, on the East line of Section 30, Township 17 South, Range 9 West of the Willamette Meridian; thence North 7° 50' West 3225.15 feet to an iron pipe on the south right of way line for the Southern Pacific Company's Mapleton Branch railroad, said point being the place of beginning; thence North 64° 52' 30" West 592.62 feet along the southerly right of way line of said Southern Pacific railroad to a point 50 feet Southwesterly from Engineer Station 2608+97.0 when measured at right angles from the railroad center line; thence around an ever increasing curve to the right to a point 50 feet Southwesterly from Station 2610+30.0, measured at right angles to a tangent to said curve at said engineer station 2610+30.0 the long chord of said curve bears North 64° 33' 30" West 132.68 feet, said point being the center of Count Creek on the North bank of the Siuslaw River; thence South 52° 40' East 743.34 feet, straight line distance along the North bank of the Siuslaw River; thence North 24° 40' East 156.52 feet to the point of beginning, all in Section 30, Township 17 South, Range 9 West of the Willamette Meridian, in Lane County, Oregon.

David J. Hilborn

7551

Description for Our Policy No. CT-85099

TRACT 4: Beginning at a point 400 feet East of the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of Section 15, Township 17 South, Range 9 West of the Willamette Meridian, running thence East 557 feet along the North line of said Southwest 1/4 of the Northwest 1/4; thence South parallel to West line of said Southwest 1/4 of the Northwest 1/4 to the North bank of Lake Creek; thence West along said North bank to a point South of the place of beginning; thence North to the place of beginning, in Lane County, Oregon.

ALSO that part of the following lying within the Southwest 1/4 of the Northwest 1/4 of Section 15, Township 17 South, Range 9 West of the Willamette Meridian:

Beginning at the 1/4 corner between Sections 15 and 16, Township 17 South, Range 9 West of the Willamette Meridian, Lane County, Oregon; thence North 0° 07' West to South bank of Lake Creek; thence Northeasterly along said South bank to a point which is North 0° 05' East of a point which is South 89° 57 1/2' East 1353.3 feet from the point of beginning; thence South 0° 03' West to said point South 89° 57 1/2' West 1353.3 feet to the point of beginning, in Lane County, Oregon.

Dorothy J. Stalbur
[Signature]
[Signature]

7551

Description for Our Policy No. CT-85099

TRACT 7: That part of the southwest 1/4 of the Northeast 1/4 of Section 14, Township 17 South, Range 9 West of the Willamette Meridian, in Lane County, Oregon, lying South of the present logging road built and established by the Consumer's co-op and now owned by Georgia Pacific Company,

ALSO: All of that part of the Southeast 1/4 of the Northeast 1/4 of Section 14, Township 17 South, Range 9 West of the Willamette Meridian, in Lane County, Oregon, lying South of the center line of Lake Creek, all being situated in Lane County, Oregon.

ALSO: Beginning at a point in the centerline of a roadway 40.0 feet in width South $86^{\circ} 43' 30''$ West 180.0 feet from a point on the East line of Section 14, in Township 17 South, Range 9 West of the Willamette Meridian, which is South $0^{\circ} 37'$ East 987.58 feet from the Northeast corner of said Section 14, run thence North 75.0 feet; thence North $81^{\circ} 16' 50''$ West 685.08 feet; thence South $1^{\circ} 12'$ West 250.0 feet to the centerline of a roadway, 40.0 feet in width; thence along said center line North $81^{\circ} 56' 54''$ East 34.87 feet; thence South $79^{\circ} 57' 26''$ East 126.5 feet; thence North $80^{\circ} 25' 34''$ East 530.7 feet to the place of beginning, in Lane County, Oregon.

Arathey Gilber

[Handwritten signature]

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10
11

After recording return to:
Don Wilbur, Limited Partnership
P.O. Box 40
Deadwood, OR 97430

Send Tax Statements to:
Don Wilbur, Limited Partnership
P.O. Box 40
Deadwood, OR 97430

Division of Chief Deputy Clerk
Lane County Deeds and Records

2001-029598



\$76.00

00175559200100295980110111

05/16/2001 04:06:34 PM

RPR-DEED Cnt=1 Stn=5 CASHIER 08
\$55.00 \$11.00 \$10.00

WARRANTY DEED

Donald D. Wilbur, aka Don Wilbur, aka Donald Wilbur, Grantor, conveys and warrants to Don Wilbur, Limited Partnership, Grantee, the following-described real property:

See Exhibit "A" attached hereto and by this reference incorporated herein as if set out in full.

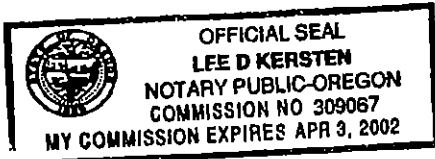
The property is free from all encumbrances except (a) Zoning ordinances, building and use restrictions, easements, covenants, conditions, and restrictions of record; (b) Conditions and restrictions apparent from a visual inspection of the property and restrictions and regulations discoverable in the public records of any governmental agency; (c) All liens and encumbrances of which Grantee has actual notice prior to receiving title; and (d) Liens and encumbrances of record.

The true and actual consideration paid for this transfer, stated in terms of dollars, is: None. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration.

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

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.

In Witness Whereof, the Grantor has executed this instrument on _____, 2001; if a corporate grantor, it has caused its name to be signed and its seal affixed by an officer or other person duly authorized to do so by order of its board of directors.



Grantor:

Donald D. Wilbur

Donald D. Wilbur, aka Don Wilbur, aka Donald Wilbur

STATE OF OREGON, County of Lane) ss.

Personally appeared before me on May 16, 2001, the above-named Donald D. Wilbur, aka Don Wilbur, aka Donald Wilbur, individually and acknowledged the foregoing instrument to be his voluntary act and deed.

Lee D. Kersten
Notary Public for Oregon

EXHIBIT "A"

PARCEL 1 (Junction City)

Beginning at a point on the Easterly right of way line of Corvallis-Junction City Section of the Pacific Highway, said point being opposite and 40.00 feet distant North 59° 15' East from Engineer's centerline Station 399'01.4 P.C. and also being 322.00 feet North and 845.7 feet East of the Southwest corner of Section 29, in Township 15 South, Range 4 West of the Willamette Meridian; thence Southerly 367.21 feet along said Easterly line of the highway on a 1677.00 foot radius curve to the right (the chord of which curve bears South 24° 28' 38" East 366.46 feet) to its intersection with the South line of said Section 29; thence South 89° 20' East 108.49 feet along said Section line to the intersection with the Northwesterly right of way line of the Harrisburg-Junction City Section of the Pacific Highway; thence Northeasterly 184.95 feet along said Northwesterly line of the highway on a 746.20 foot radius curve to the right (the chord of which curve bears North 36° 52' East 184.46 feet); thence North 43° 58' East 180.29 feet; thence North 82° 23' 30" West 499.55 feet to the place of beginning in Lane County, Oregon.

EXCEPTING THEREFROM the North ½ of the county Road on the South side of the above described tract of land in Lane County, Oregon. Containing more or less, 2.00 acres, exclusive of said county road in Lane County, Oregon.

EXCEPT 0.03 acre to State of Oregon by deed recorded in Book 363, page 66, Lane County Oregon Deed Records and being more fully described as follows:

Two parcels of land lying in the Southwest ¼ of the Southwest ¼ of Section 29, Township 15 South, Range 4 West of the Willamette Meridian in Lane County, Oregon and being a portion of the following description:

That tract of land which was conveyed by that certain deed to D. L. Smith and Winona Smith recorded in Book 344, page 86, Lane County, Oregon Deed Records, the said two parcels being described as follows:

PARCEL #1: Beginning at a point on the South line of said Section 29, said point being 1083.5 feet South 89° 20' East from the Southwest corner of said Section; thence North 44° 01' East a distance of 119.6 feet to the Westerly right of way line of the East side of the Pacific Highway; thence Southwesterly following the right of way line along the arc of a 746.20 foot radius curve to the left (the long chord of which bears South 34° 05' West 104.21 feet) a distance of 104.3 feet to the South line of said Section 29; thence North 89° 20' West along said Section line, a distance of 24.7 feet to the place of beginning containing 0.022 acre.

PARCEL #2: Beginning at a point on the South line of said Section 29, said point being 1018.8 feet South and 89° 20' East from the Southwest corner of said Section; thence North 30° 44' 30" West a distance of 104.8 feet to the Easterly right of way line of the West side Pacific

Highway; thence Southeasterly following said right of way line along the arc of a 1677.2 foot radius curve to the right (the long chord of which bears South 19° 49' East 95.57 feet) a distance of 95.6 feet to the South line of said Section 29; thence South 89° 20' East along said Section line a distance of 01.2 feet to the place of beginning, containing 0.022 acre.

The two parcels of land to which this description applies contain 0.044 acre, of which 0.018 acre lies within the existing right of way, title to which hereby is acknowledged to be in the public, and 0.026 acre lies outside of the existing right of way, containing, more or less 1.97 acre.

ALSO EXCEPTING THEREFROM: all that property conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by deed dated September 8, 1992, and recorded in Lane County Oregon deed records on September 21, 1992 as instrument No. 92-52754.

ALSO EXCEPTING THEREFROM: all that property conveyed to Safeway, Inc., a Delaware Corporation, by Memorandum of Land Sale Contract dated January 14, 1999, and recorded in Lane County Oregon deed records on January 26, 1999, as Reel #2507R, Instrument No. 99006371.

PARCEL 2 (Triangle Lake)

Beginning at a point being South 9° 03' 20" West 1144.34 feet from the East ¼ corner of Section 18, Township 16 South, Range 7 West, of the Willamette Meridian, said point also being on the North margin of State Hwy #36; thence along said North margin South 86° 25' West 199.47 feet; thence leaving said margin North 269.23 feet; thence East 240.00 feet; thence South 9° 3' 20" West 260.00 feet to the point of beginning in Lane County, Oregon.

PARCEL 3 (East Home Place)

All of Government Lot #2 and all of the Southeast quarter of the Northwest quarter of Section 18, Township 17 South, Range 8 West, of the Willamette Meridian. Except the portion of the Southeast quarter of the Northwest quarter lying North of the center line of Lake Creek, also the following described parcel:

Beginning at the Northwest corner of Section 18, Township 17 South, Range 8 West of the Willamette Meridian, thence South 1° 03' East along the township line to an iron pipe on the South right of way line of the Siuslaw Highway, said point being the true point of beginning, thence in a Northeasterly direction following the right of way line of the Siuslaw Highway around a 28° curve to the left—the long chord of which is North 29° 47½' East 198.1 feet; thence East 50.00 feet to a point in the center of Lake Creek; thence South 29° 00' East 373.80 feet following the center of Lake Creek to a point on the South line of Lot 1 in said Section 18, Township 17 South, Range 8 West of the Willamette Meridian, thence West 326.80 feet along the South line of said Lot 1 to the Southwest corner thereof; thence North 1° 03' West 155.10 feet along the West line of said Section 18 to the true point of beginning in Lane County, Oregon.

Except: 9.25 acres out to TL 601 by Reel 2145/96-12973 "Exhibit C" for 1997.

PARCEL 4 (Rock Pit)

Beginning at the Northeast corner of Section 13, in Township 17 South, Range 9 West, Willamette Meridian; and running thence, South 1° 03' East 1153.7 feet along the Township line to an iron pipe on the South right of way line of the Siuslaw Highway, said point being the true point of beginning, thence, Southwesterly following the Southerly right of way line of the Siuslaw Highway around a 28° curve, the long chord of which bears South 81° 31' West 236.87 feet, thence, South 23° 47½' East 607.74 feet to a point on the East line of Section 13, Township 17 South, Range 9 West, Willamette Meridian; thence, North 1° 03' West 591.21 feet to the true point of beginning, all being situated in Lane County, Oregon.

PARCEL 5 (Field East Home Place)

That part of the Northeast ¼ of Section 13, Township 17 South, Range 9 West, Willamette Meridian, in Lane County, Oregon, between Highway 36 and the center of Lake Creek.

Except 1.50 acre in Tax Lot 100. Except 10.75 acre in Tax Lot 200. Except 1.93 acre in Tax Lot 302. Except 1.95 acre in relocated Siuslaw Highway as per R377/12080, Parcel 1. Also by R431/59614 (1969) and by R403/34541 (1969). Except 0.26 acre in the relocated Siuslaw Highway as per R 377/12080, Parcel 1. Also by R431/59614 in 1969 and by R403/34541 (1969). Less: 0.70 acre in Siuslaw Highway No. 36.

All that property in the Northeast ¼ of Section 13, Township 17 South, Range 9 West, of the Willamette Meridian, Lane County, Oregon lying South and East of the following described property:

Beginning at a point in the center of Highway 36, said point being 1054.46 feet South and 729.78 feet East of the North ¼ corner (marked by a brass cap) Section 13, Township 17 South, Range 9 West of the Willamette Meridian, Lane County, Oregon, thence along the center of said highway, South 88° 21' East 410.48 feet; thence South 11° 08' 20" West 259.29 feet to a one and three-quarter inch iron pipe; thence South 72° 35' 45" West 111.06 feet to a point; thence North 46° 27' West 15.00 feet to a point; thence North 51° 06' West 318.94 feet to a point; thence North 03° 09' 00" West 89.00 feet to the Point of Beginning.

PARCEL 6 (Field South of Jenkins)

All of that part of the Northeast ¼ of Section 13, in Township 17 South, Range 9 West, Willamette Meridian, which lies South of the center line of Lake Creek, containing more or less 60.00 acres and all being located in Lane County, State of Oregon.

PARCEL 7 (Airstrip)

All that portion of the Northwest ¼ of Section 13, Township 17 South, Range 9 West of the Willamette Meridian in Lane County, Oregon, lying South of the center line of Highway 36 of Lane County, Oregon.

Less 1.71 acres in County Road. Less 1.76 acre in Siuslaw Highway No. 36. EXCEPT 0.15 acre in Relocated Siuslaw Highway per R377/12080 Parcel 1. Also by R403/34541 & R431/59614 in 1969.

PARCEL 8 (Home Place)

Beginning at the Southeast corner of the Northeast ¼ of the Northeast ¼ of Section 14, Township 17 South, Range 9 West, Willamette Meridian and running thence North 0° 37' West 7.9 feet along the East line of said Section 14, to the center line of the Siuslaw Highway; thence North 74° 49' 26" West 253.5 feet along the center line of said Highway; thence North 72° 07' 26" West 18.10 feet thence South 1° 12' West 327.10 feet to the center of Lake Creek; thence upstream along the center of Lake Creek (the direct line being South 54° 59' East 334.01 feet) to the East line of said Section 14; thence North 0° 37' West 439.0 feet to the place of beginning, in Lane County, Oregon. Less 0.14 acre in Siuslaw Highway.

NO PARCELS 9 OR 10

PARCEL 11 (Easement @ cement bridge)

Beginning at a point in the center of the Siuslaw Highway 388.29 feet north and 1228.93 feet West of the Southeast corner of the Northeast quarter of the Northeast quarter of Section 14 in Township 17 South, Range 9 West, Willamette Meridian, and running thence North 72° 09' 26" West 194.80 feet along the center line of the said highway; thence South 1° 12' West 106.10 feet to the center of Lake Creek; thence running upstream on the center of Lake Creek Southeasterly (the direct line being South 28° 48' East 371.76 feet); thence North 1° 12' East 372.50 feet to the place of beginning, containing 1.03 acres, more or less, in Lane County, Oregon. Except 0.07 acre out to TL 700 by R2148/96-14949 "Page 2" for 1997.

PARCEL 12 (Reeder's Cement bridge) _____ acres

Beginning at a point on the North boundary of the Southwest ¼ of the Northeast ¼ of Section 14, Township 17 South, Range 9 West, Willamette Meridian, said Point of Beginning bears South 89° 16' 00" East, a distance of 455.93 feet from the position of the Northwest corner of said Southwest ¼ of the Northeast ¼ of Section 14, as determined by a survey performed by Francis E. Waggoner, reference County Survey No. 2372, said Point of Beginning being in the as traveled centerline of a gravel road; thence following said as traveled centerline South 66° 36' 54" West, a distance of 117.32 feet; thence along a 449.83 foot radius curve to the left (chord bears South 54° 38' 38" West, a distance of 186.60 feet) an arc distance of 187.97 feet; thence South 42° 40' 23" West, a distance of 47.74 feet; thence along a 1457.44 foot radius curve to the right (chord bears South 46° 20' 46" West, a distance of 186.74 feet) an arc distance of 186.87 feet; thence South 50° 01' 09" West, a distance of 113.69 feet; thence along a 144.21 foot radius curve to the left (chord bears South 24° 56' 53" West, a distance of 122.21 feet) an arc distance of 126.20 feet; thence South 0° 07' 22" East, a distance of 208.89 feet; thence along a 63.89 foot radius curve to the right (chord bears South 9° 56' 55" West, a distance of 22.35 feet) an arc distance of 22.46 feet; thence South 20° 01' 13" West, a distance of 145.11 feet; thence along a 760.10 foot radius curve to the left (chord bears South 6° 23' 54" West, a distance of 358.03 feet) an arc distance of 361.43 feet; thence South 7° 13' 26" East, a distance of 113.21 feet to a point on the east/west centerline of said Section 14; thence following said east/west centerline South 88° 50' 42" East, a distance of 1353.04 feet; thence leaving said east/west centerline North 10° 40' 22" West, a distance of 1383.18 feet more or less, to a point on the North boundary of said Southwest ¼ of the Northeast ¼ of Section 14; thence following said North boundary, North 89° 16' 00" West, a distance of 451.88 feet to the Point of Beginning, all in Lane County, Oregon.

PARCEL 13 (Rock Pit Lk Cr Mtn Rd)

Beginning at a point in the center of a 40 foot road, said point being 139.15 feet North and 783.53 feet East of the Northwest corner of the Southwest ¼ of Northeast ¼ of Section 14, Township 17 South, Range 9 West, Willamette Meridian as established in County Survey #2372, thence run along the center of said road South 66° 50' West 368.10 feet to a point on the North line of said Southwest ¼ of Northeast ¼ of Section 14, thence running along said North line of the Southwest ¼ of Northeast ¼ of Section 14, South 89° 16' East 438.98 feet to a point in the center of a 40 foot roadway, thence along the center of said 40 foot roadway North 45° 58' West 102.83 feet and North 18° 37' West 83.33 feet to the place of beginning in Lane County, Oregon.

NO PARCEL 14

PARCEL 15 (Burn pit) _____ acres

Beginning at the Northwest corner of the Southwest ¼, of the Northeast ¼, of Section 14, Township 17 South, Range 9 West, of the Willamette Meridian, as shown in Lane County survey file #2372; thence North 0° 00' 00" East a distance of 21.16 feet; thence South 63° 30' 00" West a distance of 136.41 feet; thence South 2° 00' 00" East a distance of 381.11 feet to the True Point of Beginning being a 5/8" rebar with a yellow plastic cap marked LS1091 set in the as traveled centerline of a gravel road; thence following said as traveled centerline of a gravel road along a 367.74 foot radius curve to the right (chord bears South 75° 40' 17" West a distance of 121.29 feet) an arc distance of 121.85 feet; thence South 85° 09' 51" West a distance of 380.08 feet; thence along a 296.19 foot radius curve to the right (chord bears North 85° 05' 07" West a distance of 100.32 feet) an arc of 100.81 feet to a 5/8" rebar with a yellow plastic cap marked LS1091; thence leaving said as traveled centerline of a gravel road South 6° 12' 55" East a distance of 235.42 feet to a 5/8" rebar with a yellow plastic cap marked LS1091; thence South 0° 00' 00" East a distance of 70.00 feet to a 5/8" rebar with a yellow plastic cap marked LS1091; thence South 65° 29' 00" East a distance of 157.88 feet to a 5/8" rebar with a yellow plastic cap marked LS1091; thence South 21° 16' 00" East a distance of 533.21 feet to the east/west centerline of said Section 14, being marked by a 5/8" rebar with a yellow plastic cap marked LS1091; thence along said east/west centerline of Section 14, South 88° 50' 42" East a distance of 153.62 feet to a 5/8" rebar with a yellow plastic cap marked LS1091 set in the as traveled centerline of a gravel road; thence along said as traveled centerline of a gravel road North 7° 13' 26" West a distance of 113.21 feet; thence along a 760.10 foot radius curve to the right (chord bears North 6° 23' 54" East a distance of 358.03 feet) an arc of 361.43 feet; thence North 20° 01' 13" East a distance of 145.11 feet; thence along a 63.89 foot radius curve to the left (chord bears North 9° 56' 55" East a distance of 22.35 feet) an arc of 22.46 feet; thence North 0° 07' 22" West a distance of 208.89 feet; thence along a 144.21 feet radius curve to the right (chord bears North 6° 05' 19" East a distance of 31.21 feet) an arc of 31.27 feet to a 5/8" rebar with a yellow plastic cap marked LS1091; thence leaving said as traveled centerline of a gravel road North 2° 00' 00" West a distance of 56.67 feet more or less to the true point of beginning being a 5/8" rebar with a yellow plastic cap marked LS1091, all in Lane County, Oregon.

NO PARCEL 16 OR 17

PARCEL 18 (Wilma's adjoins Etes)

Beginning at the ¼ corner between Sections 15 and 16, Township 17 South, Range 9 West, Willamette Meridian, Lane County, Oregon thence North 0° 07' West to South bank of Lake Creek; thence Northeasterly along said South bank to a point which is North 0° 05' East of a point which is South 89° 57½' East 1353.3 feet from the point of beginning; thence South 0° 03' West to said point South 89° 57½' East of the point of beginning; thence North 89° 57½' West 1353.3 feet to the point of beginning.

PARCEL 19 (Dolly home place)

Parcel #4: The East ½ of Southwest ¼ of Northeast ¼ and the West ½ of Southeast ¼ of Northeast ¼ of Section 16, Township 17 South, Range 9 West, Willamette Meridian, Lane County, Oregon. Parcel #5: The East ½ of Southeast ¼ of Northeast ¼ of Section 16, Township 17 South, Range 9 West, Willamette Meridian, Lane County, Oregon.

EXCEPT the following described property: Beginning at the brass cap marking the ¼ corner between Sections 15 and 16, Township 17 South, Range 9 West, Willamette Meridian, thence North 0° 07' West 579.71 feet along the Section common to said Sections 15 and 16, to the South right of way line of the Siuslaw Highway, (60 feet wide) and the true place of beginning, thence South 0° 07' East 158.52 feet along said Section line to the center of Lake Creek, thence Southwesterly along the said center of Lake Creek to a point that bears South 78° 39' West 199.38 feet from the last described point, thence North 0° 07' West 155.46 feet to the South right of way line of the Siuslaw Highway (60 feet in width), thence North 77° 47' 22" East 200.00 feet along said South right of way line of the Siuslaw Highway to the true place of beginning, Lane County, Oregon.

ALSO EXCEPT: Beginning at a point on the Southerly right of way line of the Siuslaw Highway (US #36), said point being 579.71 feet North 0° 07' West and 200.0 feet South 77° 47' 22" West from the ¼ corner on the East line of Section 16, Township 17 South, Range 9 West, Willamette Meridian, and run thence South 0° 07' East 155.46 feet to the center line of Lake Creek, thence along the centerline of said Lake Creek South 69° 59' West 721.18 feet to its intersection with the centerline of Green Creek, thence along the centerline of said Green Creek North 52° 50' West 279.52 feet to the center line of Green Creek Bridge, and centerline of the Siuslaw Highway, as traveled, thence along the centerline of said Siuslaw Highway on a curve to the left, the chord of which bears South 32° 47' 45" West 64.89 feet, thence North 51° 53' 45" West 506.12 feet, thence North 1° 20' West 216.34 feet, thence North 71° 10' East 137.47 feet, thence North 59° 34' 45" East 103.12 feet to a point on the Easterly bank of Green Creek, thence South 41° 00' East 577.77 feet to a point on the Northerly right of way of the Siuslaw Highway, thence South 12° 12' 38" East 60.0 feet to a point on the Southerly right of way of the Siuslaw Highway, thence along the Southerly right of way of the Siuslaw Highway North 77° 47' 22" East 744.60 feet to the Place of Beginning, Lane County, Oregon.

ALSO EXCEPT that portion of the Siuslaw Highway and the State Secondary Highway as said Highways run through the foregoing described property.

PARCEL 20 (Swenson)

The Northeast ¼ of the Southeast ¼ of Section 16, Township 17 South, Range 9 West, Willamette Meridian, Lane County, Oregon. Less 1.10 acre in Highway.

PARCEL 21 (McVay)

Beginning at a point 400 feet East of the Northwest corner of the Southwest quarter of the Northwest quarter of Section 15, Township 17 South, Range 9 West, Willamette Meridian,

running thence East 557 feet along the North line of said Southwest quarter of the Northwest quarter, thence South parallel to West line of said Southwest quarter of the Northwest quarter to the North bank of Lake Creek, thence West along said North bank to a point South of the place of beginning, thence North to the place of beginning, in Lane County, Oregon. Less 0.79 acre taken out for State Highway. Less 0.77 acre in Siuslaw Highway.

NO PARCEL 22

PARCEL 23 (92022 West Fork Rd)

Northwest ¼ of the Northeast ¼ of the Southwest ¼; Southwest ¼ of the Northeast ¼ of the Northeast ¼ of the Southwest ¼; West ¾ of the South ½ of the Northeast ¼ of the Southwest ¼; Southeast ¼ of the Southeast ¼ of the Northeast ¼ of the Southwest ¼; South ½ of the Southwest ¼ of the Northwest ¼ of the Southeast ¼, Section 26 South, Range 9 West, Willamette Meridian, Lane County, Oregon. Less 1.40 acres in County Road. Except: 30.65 acres out to parcel 201 for 2000 by Reel 2233/9674787.

PARCEL 24 (Joe Graham)

Southeast ¼ of the Northeast ¼ of the Northwest ¼ of the Northwest ¼ in Section 26, Township 16 South, Range 9 West, Willamette Meridian, in Lane County, Oregon.

PARCEL 25 (Dead Dog Hole)

Lot 3; Southeast ¼ of the Southeast ¼; except Road, Section 20 Tax Lot 4 except in Section 21. Planimetered Government acreages Less 4.86 acres in County Road. Except 1.19 acres to 17-09-21 500 032-00 per R181/47153. (1962) Except 1.95 acre to parcel 600 on 17 09 21 for 1990 by R1635/9025467 and 9025468.

PARCEL 26 (Thompson Creek)

That portion of said Lots 1 and 2 lying Northerly of a line concentric and parallel with and distant 50 feet Northerly, measured radially and at right angles from the original located center line of Southern Pacific Company's main track, said parallel and concentric line more particularly described as follows:

Beginning at a point in the West line of said Section 23, distant 50 feet Northerly, measured radially, from said original located center line of main track of the Southern Pacific Company, at or near Engineer Station 2748-12.9; thence Southeasterly on a curve to the right, having a radius of 4633.69 feet (tangent to said curve at last mentioned point bears South 87° 08' 40" East and chord of said curve bears South 77° 39' 20" East 1527.80 feet) an arc distance of 1534.81 feet to a point; thence Southeasterly on a compound curve to the right (tangent to said compound curve at last mentioned point bears South 68° 10' East) having the following radii, central angles, and arc lengths:

Radii	Central Angles	Arc Lengths
5779.60 feet	0° 18' 00"	30.26 feet
7689.45 feet	0° 13' 30"	30.20 feet
11509.17 feet	0° 09' 00"	30.13 feet

22968.32 feet	0° 04' 30"	30.07 feet
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to a point; thence South 67° 25' East, a distance of 978.5 feet to a point; thence Southeasterly on a compound curve to the left (tangent to said compound curve at last mentioned point is last described course) having the following radii, central angles, and arc lengths:

Radii	Central Angles	Arc Lengths
11409.17 feet	0° 09' 00"	29.87 feet
5679.60 feet	0° 18' 00"	29.74 feet
3769.75 feet	0° 27' 00"	29.61 feet
2814.83 feet	0° 36' 00"	29.48 feet
2241.88 feet	0° 38' 40"	25.22 feet

to a point in the East line of the Southwest quarter of said Section 23, distant 50 feet Northeasterly measured radially, from said original located center line of main tract of the Southern Pacific Company at or near Engineer Station 2720-50.2. All in Township 17 South, Range 10 West, Section 23, Willamette Meridian, Lane County, Oregon.

PARCEL 27 (Brickerville @ RR Track)

That part of Lot 3 West of Railroad right of way Section 22, Township 17 South, Range 10 West, Willamette Meridian, in Lane County, Oregon.

PARCEL 28 (Brickerville)

Beginning at a point in the South line of the Northwest ¼ of Section 27 Township 17 South, Range 10 West Willamette Meridian 6.61 chains West of the intersection with the Westerly line of the county road; being at the Southwest corner of the tract of land conveyed to John N. Sullivan and wife by deed recorded in Book 143 Page 476 Lane County deed records and running thence North 37° 30' East along the line of said Sullivan tract 17.90 chains to the most Northerly corner thereof; thence North 47° 30' West 75.0 links to the most Westerly corner of the tract of 4 acres conveyed to Cyrus Sullivan by deed recorded in Book 160 page 115 Lane County deed records; thence North 22° 3' East 7.41 chains to the most Northerly corner of the 1 acre tract conveyed to Eva C. Goehrs by deed recorded in book 153 page 477 Lane County Deed records; thence South 64° 20' East 6.00 chains to line of said road; thence Northeasterly along the line of said road to the most Southerly corner of the tract of 18 acres conveyed to Frank P. and Minnie L. Spencer by deed recorded in Book 114 page 501 Lane County Deed records; thence along the Southerly line of said Spencer tract, North 30° West about 700 feet; thence North 60° West about 324 feet; thence West about 76.0 feet to the West line of the Northeast ¼ of the Northwest ¼ of said Section 27; thence South on said West line about 14.70 chains to the Southwest corner of said subdivision; thence, West 20.0 chains to the West line of said Section 27; thence South on section line 20 chains and thence East about 11.00 chains to the point of beginning. Less .37 acre in county road #628. All in Lane County, Oregon.

PARCEL 29 (Johnson Tract, Mapleton)

All that part of Lot 3, Section 2, Township 18 South, Range 10 West, Willamette Meridian, lying North and East of County Road #1091, in Lane County, Oregon. EXCEPTING that part lying Westerly of a line described as follows: Beginning at a point 809.72 feet North 89° 33' East from a witness corner to a meander corner on the North line of Section 2, Township 18 South, Range 10 West, Willamette Meridian, said witness corner being 644.78 feet North 89° 33' West from the Northwest corner of said Section 2, run thence South 34° 43' West 135.25 feet to the center of County Road.

PARCEL 30 (Florence Island)

All of the following described property lying Easterly of the Southern Pacific Railroad right of way as set forth by instrument recorded March 14, 1914, in Book 103, Page 505, Lane County Oregon Deed Records: Government Lots 2, 3, 4, and 5, in Section 29, and all the tidelands fronting and abutting on said Lots 4 and 5, all in Section 29, Township 18 South, Range 11 West of the Willamette Meridian in Lane County, Oregon, and

Government Lots 14, 15 and 16 in Section 20, and all the tidelands fronting and abutting on said Lots 15 and 16, of said Section 20 in Township 18 South, Range 11 West, Willamette Meridian, EXCEPT: from said Lot 14, those parcels conveyed to M. E. Saubert by deeds recorded in Book "V", page 94 and in Book 36, page 624 and that parcel conveyed to John Lawson, by deed recorded in Book 26, page 320, Lane County Oregon Deed Records, in Lane County, Oregon.

ALSO including: That portion of the following described premises which lies West of the Southern Pacific Railroad Right of Way:

Lot 8 of Section 30 and all the Tide Land fronting and abutting Lot 8 in Section 30, all in Township 18 South, Range 11 West of the Willamette Meridian.

Also Lot 7 of Section 30, Township 18 South, Range 11 West of the Willamette Meridian, and also all the tide lands fronting and abutting upon that portion of Lot 7 described above.

EXCEPTING however that part of Lot 7 conveyed to Anna B. Marsh, Trustee, by deed recorded at page 210 of Book 41 of the Deed Records of Lane County, Oregon.

ALSO EXCEPTING a small parcel of Land in said Lot 7 conveyed to E. A. Pratt by Deed Recorded at page 357 of Book 97.

ALSO EXCEPTING 2 acres of land in a square, being situated in the Northwest corner of said described property which is bounded by land heretofore conveyed to E. A. Pratt by deed Recorded at page 357 of Book 97 of Lane County Deed Records which is bounded on the West by the land deed to E. A. Pratt and bounded on the North by the Siuslaw River, following the meander thereof.

ALSO including: Beginning at a point which is 274.8 feet South and 1020.0 feet South 65° 10' West of the corner of Sections 19, 20, 29, & 30, Township 18 South, Range 11 West, Willamette Meridian, Lane County, Oregon; run thence South 45° East 141.0 feet; thence North 45° East 100.0 feet; thence North 45° West 79.5 feet to the bank of Siuslaw River; thence Southwesterly along said river bank to point of beginning and any other land there may be between this land and

the Siuslaw River, including tide land, if any;

ALSO: Two acres of land in a square and being situate in the Northwest corner of the following described premises, to-wit: Lots 14, 15, and 16, Section 20, and Lot 4, Section 29, and Lot 7, Section 30, Township 18 South, Range 11 West, Willamette Meridian, Lane County, Oregon, said two acres herein described is bounded by land heretofore conveyed to E. A. Pratt by deed recorded at Page 357 of Book 97 Deed Records, Lane County, Oregon, and is bounded on the North by the Siuslaw River, following the meander thereof and situate in Lane County Oregon.

ALSO: Lot 6 and that part of Lot 7 lying Westerly of the line of an old picket fence extending to other margin of said Lot 7, said line of fence so extended from the South bank of the Siuslaw River, run thence South 45° East across said lot and a point in said line bears South 63° West 1060.0 feet from the Section line between Sections 29, and 30, in Section 30, Township 18 South, Range 11 West, Willamette Meridian, and all tide land abutting, Lane County, Oregon.

NO PARCEL 31, 32, and 33

LEE D. KERSTEN
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Telephone: (541) 345-4312
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September 11, 2006

REC'D SEP 12 2006

Steve Hopkins
Lane County Land Management
125 E. 8th Avenue
Eugene, OR 97401

Re: Wilbur BM 37 Claims
PA 05-6833; PA 05-6834; PA 05-6835; PA 05-6836; PA 05-6837;

Dear Mr. Hopkins:

Please include this submission in the file for the above BM 37 Claims.

The draft staff report in this matter, in the "reduction in fair market value" section, discusses the property being conveyed to Don Wilbur Limited Partnership on March 16, 2001. The draft report then concludes that "...since the partnership is considered the new owner for the purposes of this Ballot Measure 37 Claim, the only regulations that can be waived are those enacted since the partnership acquired the property." The applicant believes this conclusion is incorrect.

There is no doubt that the property was conveyed to the Don Wilbur Limited Partnership on May 16, 2001. However, the applicant's position is that this does not automatically make the partnership a new owner for the purposes of this Ballot Measure 37 Claim.

BM 37 defines "owner" as "...the present owner of the property or any interest therein." The definition of family member includes ..."A legal entity owned by anyone or a combination of these family members or the owner of the property." In this matter, the applicant's position is that Don Wilbur qualifies under these definitions as the owner of the property. The limited partnership which was the grantee of the May 16, 2001 deed is in essence nothing more than Don Wilbur. The applicant represents that the general partner of Don Wilbur Limited Partnership is an Oregon corporation owned solely by Don Wilbur. The applicant also represents that the limited partnership interests are held by the general partner (which is owned entirely by Mr. Wilbur), Mr. Wilbur, Mr. Wilbur's daughter, and a long time companion of Mr. Wilbur.

Mr. Wilbur has total control over the property. The general partner has total control over the limited partnership. Mr. Wilbur totally controls the general partner. Additionally, Mr. Wilbur owns more than one-half of the limited partnership interests,

either directly, or through the general partner which he controls and is the sole shareholder. Additionally, the small minority interest held by Mr. Wilbur's long time companion is subject to a written option agreement allowing Mr. Wilbur to purchase that interest at any time.

Accordingly, nothing can occur on the property without Mr. Wilbur's consent. The limited partnership was established for estate planning purposes and through it, Mr. Wilbur still owns the real property which is the subject of this Claim. All this was done before BM 37 was ever drafted so there is clearly no intent to manipulate BM 37 rights.

It is clear from the above definition in BM 37 of "family" that BM 37 anticipates a legal entity as a qualifying interest under BM 37. Note particularly the concluding portion of the definition of family member in section 11 (A) of BM 37 ("...or a legal entity owned by anyone or combination of these family members or the owner of the property."). Note how this coordinates with section 3 (E) of BM 37 which references acquisition or inheritance by the owner, or a family member of the owner.

The applicant believes that the definitions in BM 37 clearly anticipate ownership by a family entity, particularly, as in this application, where the family member totally controls the entity. Accordingly, the Applicant believes Don Wilbur should be considered the present owner of the property for purposes of BM 37 section 6 and that waiver of land use regulations should occur from the time Don Wilbur initially acquired an interest in the property and not from the time the property was conveyed to the limited partnership.

Please do not hesitate to contact me if you have any questions.

Yours truly,

Lee D. Kerster



LDK/jmd

Copy: Client

LEE D. KERSTEN

REC'D SEP 20 2006

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September 19, 2006

Steve Hopkins
Lane County Land Management
125 E. 8th Avenue
Eugene, OR 97401

Re: Wilbur BM 37 Claims
PA 05-6833; PA 05-6834; PA 05-6835; PA 05-6836; PA 05-6837;

Dear Mr. Hopkins:

Please include the enclosure with this letter in the file for the above BM 37 claims.

As you can see, the issue in that referenced matter is whether land ownership dates back to when the land was originally acquired or to when it was transferred to a family owned limited liability company.

In the Wilbur applications, the applicant believes the Crook County judge is correct in that the date of ownership should extend back to the original purchase if the land owner retains an interest in the entity holding the property. In the Wilbur BM 37 claims, Mr. Wilbur has retained the vast bulk of the ownership with a small percentage being owned by his daughter and another small percentage being owned by his long time companion (which percentage is subject to an option to purchase in favor of Mr. Wilbur). The applicant hopes the Board will consider this when examining these applications and allow waiver back to the time Mr. Wilbur acquired the properties.

Please do not hesitate to contact me if you have any questions.

Yours truly



Lee D. Kersten

LDK/jmd

Enclosures: Cited

Copy: Client (w/encls)

Yamhill Measure 37 claim triggers suit

Counties differ on interpretation of property ownership status

By MITCH LIES
Capital Press Staff Writer

Bob Hemstreet, the latest landowner to fall victim to a narrow interpretation of Measure 37, has filed suit against Yamhill County, alleging county officials misinterpreted his claim.

In a suit filed Aug. 31, Hemstreet claims county officials misinterpreted Oregon's statutes in restricting his development rights to no more than 17 lots on 852 acres of timberland near Sheridan. Hemstreet is seeking to develop 140 residential lots.

Hemstreet's claim hinges on whether land ownership dates back to when he acquired the land or to when he transferred ownership to a corporation.

He acquired his 852 acres in the 1950s, well before Oregon's land-use laws were enacted. It has been operating under Lazy H Ranch, a limited liability corporation in which he and his wife, Mary, are principals, since 1997.

Under Measure 37, a landowner is eligible to be compensated for the loss of property value caused by a regulation if:

- the regulation was enacted after the owner purchased the land; Gov. termments also can waive the regulation.
- Hemstreet is seeking \$35 million in compensation or a waiver of the land-use restrictions.

Yamhill County commissioners determined in a May 31 decision ownership fell back only to when the corporation was formed in 1997, when the minimum lot size allowable on the land was 80 acres.

Union County commissioners in June used a similar precedent in denying a Measure 37 claim from Dennis Rasmussen, whose family ownership of more than 1,750 acres near La Grande dates back to 1946.

In its decision, Union County determined the relevant date of ownership for Rasmussen was 1976, when the Rasmussen family established Terra Magit Inc, which today is listed as the owner-operator of the farm.



Rasmussen has said he plans to appeal the decision.

Dave Hunnicutt, executive director of Oregonians In

Action, which Hunnicutt wrote Measure 37, said counties have interpreted the law both ways — in some cases dating ownership back to when a landowner first purchased the land and in other cases dating ownership back only to when a family or landowner established a corporation.

In the lone court decision to reference the issue, Hunnicutt said a Grook County judge indirectly indicated while ruling on another Measure 37 issue that the date of ownership should extend back to the original purchase if a landowner retains an interest in the corporation holding the property.

Hunnicutt said he believes Yamhill County's interpretation is not consistent with the measure.

Hemstreet filed his suit with the county circuit court rather than with the Land Use Board of Appeals because Measure 37 is not classified as a land-use measure.

Mitch Lies is based in Salem. His e-mail address is mlies@capitalpress.com.