



SUPPLEMENTAL INFORMATION SUBMITTED

Submitted on: 5-25-07 Taken By: SGS

SUPPLEMENTAL INFORMATION HAS BEEN RECEIVED BY THIS OFFICE IN REGARDS TO THE FOLLOWING:

BP# _____

PA# 067309

MC

Harper 1

SP# _____

SI# _____

OTHER:

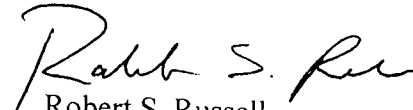
Mr. Matt Laird

• May 25, 2007

Page 2

Thank you for your time and attention to this matter. Please call us with any questions.

Sincerely,



Robert S. Russell

russell@gleaveslaw.com

RSR/jck

cc: Steve Vorhes



SUPPLEMENTAL INFORMATION SUBMITTED

Submitted on: 5-25-07

Taken By: SGS

SUPPLEMENTAL INFORMATION HAS BEEN RECEIVED BY THIS OFFICE IN REGARDS TO THE FOLLOWING:

BP# _____

PA# 06 7309

Bill Sage

SP# _____

Harper 1

SI# _____

OTHER:

May 25, 2007

05-25-07 10:39:39 RCVD

Via Hand Delivery

Mr. Bill Sage
Lane County Land Management Division
125 East 8th Ave.
Eugene, Oregon 97401

Re: Measure 37 Claim PA06-7309 (Harper1)

Dear Mr. Sage:

This is to alert you to an error in the County's analysis regarding the above-referenced claim. As we pointed out in our initial application materials, one of the lots which is the subject of Mrs. Harper's application – Tax Lot 901 – was never placed in the Harper Family Limited Partnership. Enclosed is a title report showing that Mrs. Harper has continuously held title to that property, in her individual capacity, from the date that she initially acquired it – June 1, 1966 - to the present.

Therefore, even assuming purely for the sake of argument that Mrs. Harper's placement of other properties in the partnership created a new date of "ownership" for purposes of determining the appropriate waiver date (a conclusion which we vigorously dispute), there is no doubt that the waiver on Tax Lot 901 must go back to June 1, 1966. The County, as you are aware, has already determined that Mrs. Harper is entitled to a waiver, so it is just a matter of designating the correct date.

Thank you for your attention to this matter.

Sincerely,



Dan Webb Howard
howard@gleaveslaw.com

DWH/jck
Enclosure
cc: Steve Vorhes

Phone:
(541) 686-8833
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William H. Martin*
Walter W. Miller
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Tanya C. O'Neil
Standlee G. Potter
Martha J. Rodman
Robert S. Russell
Douglas R. Schultz
Malcolm H. Scott
James W. Spickerman
Kate A. Thompson
Jane M. Yates

*Also admitted
in Washington



STATUS OF RECORD TITLE REPORT

GLEAVES, SWEARINGEN, POTTER & SCOTT, LLP
ATTN: DAN HOWARD
975 OAK STREET, SUITE 800
EUGENE, OR 97401

Our No: CT-0254811
Date: MAY 24, 2007
Charge: \$200.00
Government Service Fee: \$25.00

As requested, Cascade Title Co. has searched our tract indices as to the following described real property:

(A T T A C H E D)

and as of: MAY 17, 2007, at 8:00 A.M. we find the following:

Vestee:

JANET L. HARPER

Said property is subject to the following on record matters:

1. As disclosed by the tax rolls, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
2. Lack of access to and from a legally dedicated road or highway.
3. Easement, including the terms and provisions thereof, granted Mountain States Power Company, by instrument recorded May 2, 1945, Book 287, Page 445, Lane County Oregon Deed Records.
4. Any question as to the exact location of the center line of the slough described in deed to Thomas J. Harper and Janet L. Harper, recorded June 1, 1966, Reception No. 49182, Lane County Oregon Deed Records, is excepted.

NOTE: Taxes, Account No. 0052504, Assessor's Map No. 16 04 23, #901, Code 69-30, 2006-2007, in the amount of \$2.45, PAID IN FULL.

NOTE: The vestee acquired title under deed recorded June 1, 1966, Reception No. 49182, Lane County Official Records, and has been in continuous title since that date:

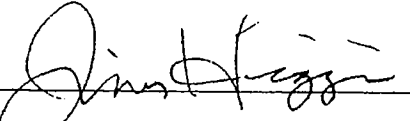
continued-

MAIN OFFICE * 811 WILLAMETTE ST. * EUGENE, OREGON 97401 * PH: (541) 687-2233
FLORENCE * 1901 HWY 101 - S. 2 * FLORENCE, OREGON 97439 * PH: (541) 997-8417
EUGENE FAX: 485-0307 * E-MAIL: info@cascadetitle.com * FLORENCE FAX: 997-8246

This report is to be utilized for information only. This report is not to be used as a basis for transferring, encumbering or foreclosing the real property described.

The liability of Cascade Title Co. is limited to the addressee and shall not exceed the premium paid hereunder.

CASCADE TITLE CO., by:

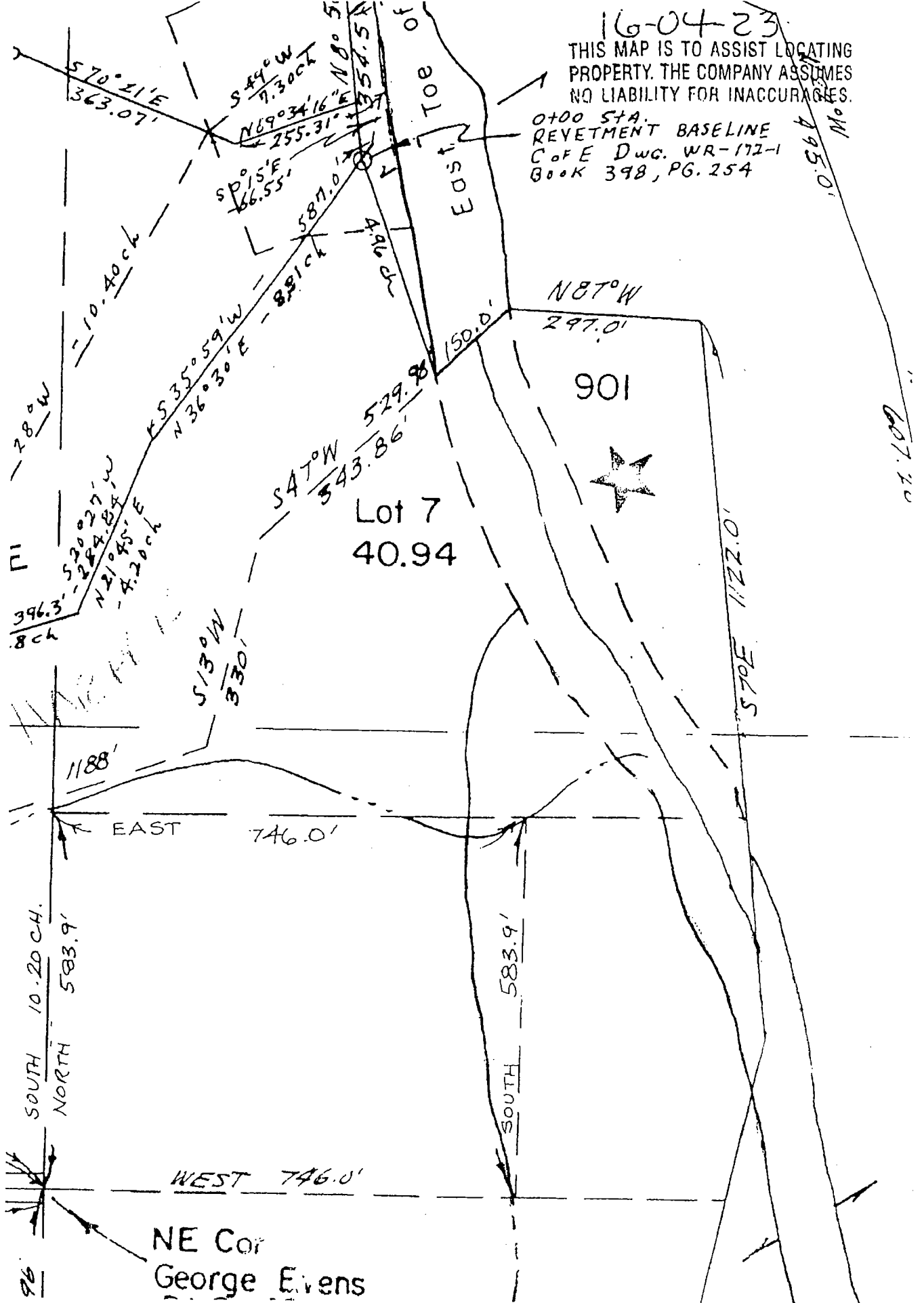

sm/Title Officer: JIM HIGGINS

PROPERTY DESCRIPTION

All that portion of Government Lot 7, in Section 23, Township 16 South, Range 4 West, Willamette Meridian, lying North and East of the center line of a certain slough as it exited in May 1966; said slough enters the property at or near the approximate Southeasterly corner of Lot 7 and continues in a Northwesterly direction to the North line of Lot 47, said parcel contains 6 acres more or less, all in Lane County, Oregon.

16-04-23
THIS MAP IS TO ASSIST LOCATING
PROPERTY. THE COMPANY ASSUMES
NO LIABILITY FOR INACCURACIES.

0+00 STA.
REVIETMENT BASELINE
CoFE Dwg. WR-172-1
BOOK 398, PG. 254



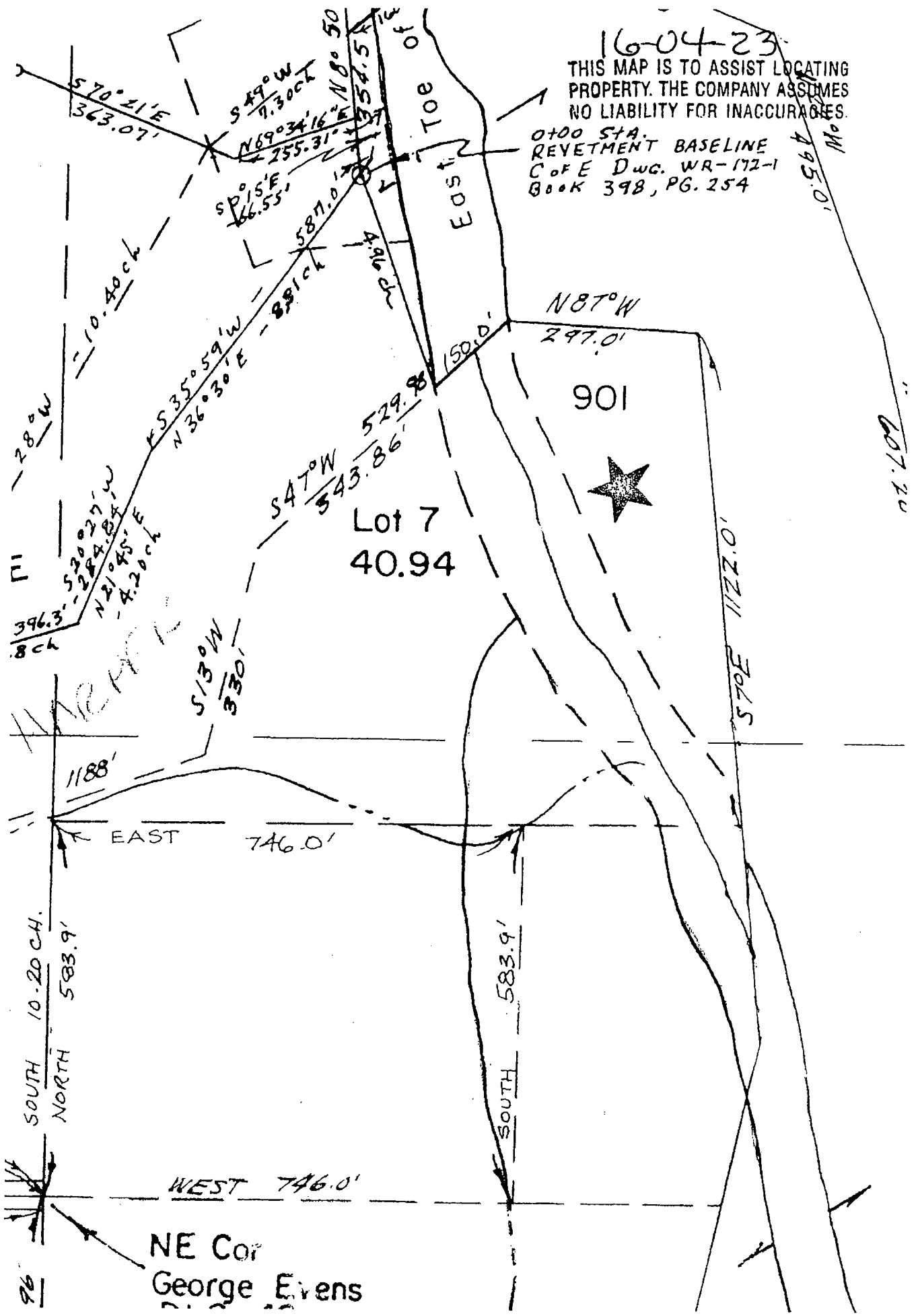
570°21'E
363.07'
S 44°W
7.30ack
N 69°34'16"E
255.31'
S 01°5'E
66.55'
587.0'
N 80°5'
54.5'
10.40ack
28°W
396.3'
520°27'W
284.85'
N 21°45'E
4.20ack
E 53°55'W
N 36°30'E
88.1ck
S 47°W
543.86'
529.8'150.0'
N 87°W
297.0'
901
Lot 7
40.94
S 13°W
330'
S 70°E
122.0'
10.56' Mo
607.70

1188'
EAST 746.0'
SOUTH 10.20 CH.
NORTH 583.9'
WEST 746.0'
SOUTH 583.9'
NE Cor
George Evens

16-04-23

THIS MAP IS TO ASSIST LOCATING PROPERTY. THE COMPANY ASSUMES NO LIABILITY FOR INACCURACIES.

0+00 STA. REYETMENT BASELINE
CoE Dwg. WR-172-1
BOOK 398, PG. 254





SUPPLEMENTAL INFORMATION SUBMITTED

Submitted on: May 15 Taken By: km at hearing

SUPPLEMENTAL INFORMATION HAS BEEN RECEIVED BY THIS OFFICE IN REGARDS TO THE FOLLOWING:

BP# _____

PA# 06-7309 Harper I

SP# _____

SI# _____

OTHER: MAY 16 BS

LEE D. KERSTEN
Attorney at Law
260 Country Club Road, Suite 210
Eugene, OR 97401
Telephone: (541) 345-4312
Fax: (541) 345-7098

May 14, 2007

Lane County Board of Commissioners
125 E. 8th Avenue
Eugene, OR 97401

Re: PA 067309
Harper BM 37 Claim

Dear Commissioners:

This office represents Lone Pine Farms, Ltd. ("Lone Pine"). Lone Pine opposes this application.

Tax lot 1401 was conveyed as a tenants in common ownership on April 8, 1993. Mrs. Harper did not acquire full title to the property until Mr. Harper died on March 9, 2001. Lone Pine believes this created a break in the chain of title and that waiver, if granted, should be effective as of the date Mrs. Harper obtained complete title to the property, March 9, 2001.

Tax lots 301, 1600, 100, 200, 1401, and 900 were conveyed to a limited partnership on December 11, 1996. Accordingly, Lone Pine's position is that waiver, if granted, should be effective as of that date. Lone Pine notes that this particular limited partnership is owned 10% by Mr. Harper as general partner, 10% by Mrs. Harper as general partner, and 80% owned by the limited partners. The agreement lists the limited partners as Mr. and Mrs. Harper. There is no designation that they hold their interest as joint tenants with rights of survivorship and accordingly the statutory presumption is that they hold as tenants in common. Accordingly, no single partner exercises control over the limited partnership. Accordingly, there is no retained right to dispose, right to use, or right to possess the real property as suggested by the applicant's submission. Lone Pine suggests it is inappropriate to aggregate Mr. and Mrs. Harper as husband and wife because they hold their interests in the partnership as tenants in common. The Partnership Agreement at Section 12.6 provides that each member will vote their profits interest. The Partnership Agreement at Section 12.6 also allows a limited partner to vote for dissolution. The Partnership Agreement at Section 11.2 (d) limits the general's partner's right to sell unless there is a 75% concurring vote of the limited partners.

Lone Pine also objects to the valuation material presented. The Rasmussen valuation is irrelevant to value. It presents a business operating value based on operating and marketing assumptions in the report. Business profit or loss is totally speculative and generally irrelevant to land value.

The assumptions provided to Mr. Rasmussen contain many internal inconsistencies, are inconsistent with facts existing at the property and in reality, and present a skewed result. Following are some examples.

1. "Creaming" of the upper lift material as assumed in the report essentially front loads income receipts and distorts the present value calculation. It also increases the price received for the product by selling the top quality product first. By first discounting a higher profit material and secondly by moving the extraction of this material to earlier years where the discount has less effect, the present value produced is distorted.
2. There is no evidence demand exists to absorb this extra gravel without price adjustment. Eugene Sand testified it would be put out of business if its CUP application was denied. However, several years later it is still profitably operating by purchasing rock. If that purchased rock is removed from the market and replaced by this rock, because the purchased rock is owned by a different operator, price changes should naturally occur. Not only is the report's assumption incorrect economically, but it is internally inconsistent with the facts presented in the assumptions.
3. The "full compliance with all laws" statement sounds good but in reality the entire purpose of the Measure 37 Claim is to waive application of those laws.
4. Assumption 9 reflects an average per acre rate of material yet in their CUP application Eugene Sand gerrymandered its pit shape and showed areas where no mining would occur. Equal distribution of the material is also inconsistent with the pit drilling reports from the CUP application.
5. The reserve estimates are based on the CUP data which was highly criticized by geological experts and LUBA.

There are many other technical difficulties with the valuation.

OAR 125.145-004 (5) contains a list of other information which may be considered. Lone Pine would like to point out that these properties are in the flood plain and consist primarily of Class I and Class II Soils.

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

Yours truly,



Lee D. Kersten

LDK/jmd

Copy: Client