

MEMORANDUM OF CHARTEROF THE MILLER HILL WEST HOMEOWNERS ASSOCIATION

BE IT KNOWN THAT ON THIS 20<sup>th</sup> DAY OF MARCH, 1998,  
DONALD R. GRUENER DID EXECUTE AN AGREEMENT ENTITLED "CHARTER OF  
THE MILLER HILL WEST HOMEOWNERS ASSOCIATION", FOR THE MAINTENANCE  
OF:

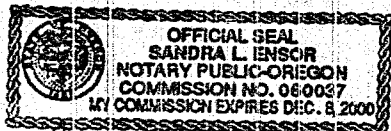
A TRACT OF LAND SITUATED IN THE SW 1/4 SW 1/4 OF SECTION 28,  
T39S, R9EWM, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED  
AS FOLLOWS:

BEGINNING AT A POINT WESTERLY RIGHT OF WAY LINE OF THE C-4-K  
LATERAL, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 28,  
BEARS S88°17'47"W 30.01 FEET AND S00°01'40"W 525.48 FEET; THENCE,  
ON THE ARC OF A CURVE TO THE RIGHT ALONG SAID RIGHT OF WAY,  
(CENTRAL ANGLE EQUALS 37°50'20" AND THE RADIUS POINT BEARS  
N720°9'22"E 151.42 FEET) 30.54 FEET; THENCE N88°17'47E 30.12 FEET  
TO THE EASTERLY RIGHT OF WAY LINE OF SAID LATERAL; ON THE ARC OF  
A CURVE TO LEFT ALONG SAID RIGHT OF WAY, (CENTRAL ANGLE EQUALS  
14°33'56" AND THE RADIUS POINT BEARS 82°34'40" 121.42 FEET) 30.87  
FEET; THENCE, S88°17'47"W 31.56 FEET TO THE POINT OF BEGINNING.

Donald R. Gruener  
DONALD R. GRUENER

STATE OF OREGON )  
COUNTY OF KLAMATH ) SS.

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS  
20<sup>th</sup> DAY OF MARCH, 1998



Sandra L. Ensor  
Expires: 12/8/2000

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# CHARTER OF THE MILLER HILL WEST HOMEOWNERS ASSOCIATION

## I.

### NAME

THE NAME OF THIS ASSOCIATION SHALL BE THE MILLER HILL WEST HOMEOWNERS ASSOCIATION (REFERRED TO AS THE "ASSOCIATION")

## II.

### PURPOSE AND MEMBERSHIP

A. PURPOSE. THE PURPOSE OF THE ASSOCIATION SHALL BE TO OBTAIN AND ACCEPT ACCESS OVER USBR (UNITED STATES BUREAU OF RECLAMATION) C-4-K LATERAL DRAIN AND PROVIDE FOR THE MAINTENANCE OF MILLER HILL WEST EASEMENT. FOR THE PURPOSE OF THIS, MILLER HILL WEST IS DIVIDED INTO SEGMENT A AND SEGMENT B. SEGMENT A OF MILLER HILL WEST EASEMENT IS A BUREAU OF RECLAMATION ACCESS EASEMENT DESIGNATED AS A PORTION OF THE USBR C-4-K LATERAL DRAIN SITUATED IN THE SW1/4 SW1/4 OF SECTION 28, T39S, R9EWM, KLAMATH COUNTY, OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WESTERLY RIGHT OF WAY LINE OF THE C-4-K LATERAL, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 28, BEARS S88°17'47"W 30.01 FEET AND S00°01'40"W 525.48 FEET; THENCE, ON THE ARC OF A CURVE TO THE RIGHT ALONG SAID RIGHT OF WAY, (CENTRAL ANGLE EQUALS 37°50'20" AND THE RADIUS POINT BEARS N72°09'22"E 151.42 FEET) 30.54 FEET; THENCE N88°17'47"E 30.12 FEET, TO THE ARC OF A CURVE TO LEFT ALONG SAID RIGHT OF WAY, (CENTRAL ANGLE EQUALS 14°33'56" AND THE RADIUS POINT BEARS S2°34'40" 121.42 FEET) 30.87 FEET; THENCE S88°17'47"W 31.56 FEET TO THE POINT OF BEGINNING.

SEGMENT B ACCESS LIES WITHIN THE WESTERLY 60 FEET OF PARCEL 2 OF LAND PARTITION 52-96.

THE ACCEPTANCE OF MAINTENANCE AND ACCESS OF SEGMENT A WILL BE AS REQUIRED BY THE BUREAU OF RECLAMATION. THE MAINTENANCE OF SEGMENT B WILL BE THE EASEMENT MAINTENANCE AND ACCESS AGREEMENT FOR DEDICATED WAY DATED 3-20-98 BETWEEN PARCELS 1, 2, AND 3 AS OWNERS.

B. MEMBERSHIP. THE MEMBERS OF THE ASSOCIATION SHALL CONSIST OF THE LEGAL OWNERS, OR CONTRACT PURCHASERS, OR THEIR SUCCESSORS, OF EACH PARCEL OF THE PROPERTY CONTAINED IN THE MILLER HILL WEST, AS MORE FULLY DESCRIBED IN SECTION III OF THIS CHARTER. WHERE TWO OR MORE INDIVIDUALS ARE IN JOINT OWNERSHIP OF A PARCEL, THEY SHALL CONSTITUTE A SINGLE MEMBER. THE MEMBER OF THE ASSOCIATION DO AGREE, BY VIRTUE OF THEIR MEMBERSHIP IN THE ASSOCIATION, TO CONTRIBUTE TO THE EXPENSES OF MAINTENANCE AND UPKEEP OF THE ACCESS EASEMENT AS MORE FULLY SET FORTH HEREIN. MEMBERSHIP IN THE ASSOCIATION MAY BE TERMINATED ONLY AFTER DIVESTMENT BY THE MEMBER OF ALL INTEREST IN THE PROPERTY SERVED BY MILLER HILL WEST, AND BY PAYMENT OF ALL ACCRUED ASSESSMENTS.

## III.

## DESCRIPTION OF PROPERTIES

THE PROPERTY SUBJECT TO THIS CHARTER OF MILLER HILL WEST HOMEOWNERS ASSOCIATION IS AS FOLLOWS: PARCEL 1 OF "MAJOR LAND PARTITION 78-83"

FILED IN KLAMATH COUNTY

ON JUNE 12, 1984.

## IV.

## DESIGNATION OF AGENT

DONALD R. GRUENER, 1081 JOE WRIGHT ROAD, KLAMATH FALLS, OREGON, 97603, IS DESIGNATED AS AGENT FOR THE ASSOCIATION FOR SERVICES OF PROCESS, BILLS OR OTHER NOTICES ON BEHALF OF IT'S MEMBERS. THE DESIGNATED AGENT MAY DELEGATE POWERS AND DUTIES HEREIN TO SUCH PERSON AS HE SHALL SELECT. THE DESIGNATED AGENT MAY BE CHANGED OR REPLACED ONLY WITH HIS/HER CONSENT AND BY A MAJORITY VOTE OF THE MEMBERS, WHICH VOTING MAY BE BY MAIL, BUT THE CHANGE OR REPLACEMENT WILL BE EFFECTIVE ONLY UPON THIRTY (30) DAYS NOTICE, DELIVERED PERSONALLY OR BY CERTIFIED MAIL TO THE BUREAU OF RECLAMATION.

## V.

## MEMBERSHIP LIST

IN JANUARY OF EACH YEAR THE ASSOCIATION SHALL PREPARE A LIST OF THE NAMES AND ADDRESSES OF IT'S MEMBERS, SHOWING PARCELS OF PROPERTY OWNED BY EACH INDIVIDUAL MEMBER. THIS LIST SHALL BE PROVIDED TO THE BUREAU OF RECLAMATION OFFICE ON OR BEFORE MARCH 1 OF EACH YEAR.

## VI.

## LIABILITY AND ASSESSMENT OF LIENS

A. LIABILITY. EACH MEMBER OF THE ASSOCIATION SHALL BE PERSONALLY LIABLE TO THE ASSOCIATION FOR HIS/HER PRO RATA SHARE OF FEES AND EXPENSES. THE ASSOCIATION SHALL HAVE THE AUTHORITY AND RESPONSIBILITY TO COLLECT THE ASSESSMENTS IN AN EQUITABLE FASHION, AND TO FILE A LIEN AGAINST THE PROPERTY OF A DELINQUENT MEMBER AND TO FORECLOSE THE LIEN IN ACCORDANCE WITH STATE LAW. THESE REMEDIES SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ANY REMEDY WHICH MIGHT BE AVAILABLE TO THE ASSOCIATION. NOTWITHSTANDING THE DELINQUENCY OF IT'S MEMBERS, THE ASSOCIATION SHALL BE OBLIGATED TO PERFORM THE REQUIRED MAINTENANCE.

B. ASSESSMENT. EACH MEMBER, WHO OWNS A PARTICULAR PARCEL OF THE PROPERTY, SHALL PAY AN ANNUAL FEE ON OR BEFORE JANUARY 1 OF EACH YEAR COMMENCING ON JANUARY 1, 1999. EACH MEMBER SHALL PAY AN ANNUAL FEE OF \$100.00 PER PARCEL ON JANUARY 1, 1999.

WHICH ANNUAL FEE SHALL INCREASE BY 5% OVER THE PRECEDING FEE AMOUNT EACH TWO YEARS. (I.E. THE ANNUAL FEE FOR 1999 AND 2000 SHALL BE \$100.00; THE ANNUAL FEE FOR 2001 AND 2002 SHALL BE \$105.00; AND THE ANNUAL FEE SHALL CONTINUE TO INCREASE ON A LIKE BASIS EACH 2 YEARS THEREAFTER). IN THE EVENT THE ANNUAL FEE IS INSUFFICIENT TO COVER THE EXPENSES OF THE ASSOCIATION UNDER THIS CHARTER, INCLUDING ANY COURT COSTS OR ATTORNEY FEES NECESSARILY INCURRED, THE EXCESS SHALL BE ASSESSED TO THE MEMBERS ON A PRO-RATA BASIS. THE FUNDS SHALL BE PAID TO THE ASSOCIATION'S AGENT AS DESIGNATED ABOVE WHO SHALL MAINTAIN THE FUNDS IN A BANK ACCOUNT IN THE NAME OF THE ASSOCIATION.

# VII.

## PERFORMANCE OF MAINTENANCE AGREEMENT

THE PRESENT AND FUTURE MEMBERS OF THIS ASSOCIATION DO AND WILL BENEFIT FROM SEGMENT B OF THE SUBJECT EASEMENT AND SEGMENT B IS THE SUBJECT OF A REQUIRED EASEMENT MAINTENANCE AGREEMENT. EACH MEMBER HEREIN, BOTH PRESENT AND FUTURE, DOES FOR HIMSELF, HIS HEIRS, SUCCESSORS AND ASSIGNS, AGREE TO BE RESPONSIBLE FOR THE PERFORMANCE OF ALL OF THE COVENANTS, CONDITIONS AND REQUIREMENTS IN SAID EASEMENT MAINTENANCE AGREEMENT, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN AS EXHIBIT "A".

# VIII.

## MAINTENANCE OF USBR EASEMENT

THE ASSOCIATION AND IT'S MEMBERS AGREE TO MAINTAIN SEGMENT A AS REQUIRED BY THE KID. THE ASSOCIATION SHALL MAINTAIN SEGMENT A IN ACCORDANCE WITH KID REQUIREMENTS.

A. USE RESTRICTIONS. SEGMENT A SHALL BE USED FOR INGRESS AND EGRESS PURPOSES ONLY AND SHALL NOT BE OBSTRUCTED BY ANY MEMBER FOR ANY PURPOSE UNLESS PRIOR WRITTEN CONSENT FOR THE AUTHORIZED USER OF THE USBR.

# IX.

## HOLD HARMLESS

EACH MEMBER AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE OTHER MEMBERS AND THE USBR AND KLAMATH COUNTY FROM AND AGAINST ANY AND ALL LAWSUITS, CLAIMS, DEMANDS, OR OTHER LIABILITIES WHATSOEVER ARISING OUT OF THEIR OWN USE, OR USE BY THEIR INVITEES, GUESTS, AGENTS OR EMPLOYEES OF MILLER HILL WEST EASEMENT. EACH MEMBER ASSUMES ALL RISKS ARISING OUT OF THEIR INDIVIDUAL USE OF MILLER HILL WEST EASEMENT.

# X.

## ATTORNEY FEES

IN THE EVENT OF SUIT OR ACTION, OR APPEAL THEREFROM, IS BROUGHT TO ENFORCE ANY RIGHT OR REMEDY ARISING FROM THIS CHARTER

OR THE MAINTENANCE AGREEMENT PORTION THEREOF, THE LOSING PARTY OR PARTIES SHALL PAY TO THE PREVAILING PARTY OR PARTIES, REASONABLE ATTORNEY'S FEES AS DETERMINED BY THE COURT.

## XI.

## RECORDING

THIS CHAPTER, OR MEMORANDUM THEREOF, SHALL BE EXECUTED BY THE MEMBERS, ACKNOWLEDGED, AND RECORDED IN THE REAL PROPERTY RECORDS FOR THE COUNTY OF KLAMATH, OREGON.

## XII.

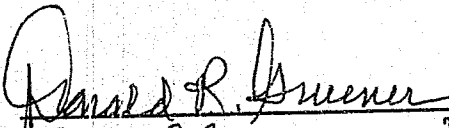
## NO AMENDMENT

THIS CHARTER, EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, MAY NOT BE AMENDED OR MODIFIED EXCEPT BY UNANIMOUS VOTE OF THE MEMBERS, NOR MAY IT BE AMENDED OR MODIFIED WITHOUT WRITTEN CONSENT OF THE USBR.

EXECUTED THIS 20<sup>TH</sup> DAY OF MARCH, 1998

PARCEL 1 OF "MAJOR LAND PARTITION 78-93"

KLAMATH COUNTY, OREGON:

  
DONALD R. GRUENER TRUSTEE

TRUSTEE

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Tru Line the 20th day  
of March A.D. 19 98 at 1:26 o'clock P. M., and duly recorded in Vol. M98  
of Deeds on Page 8952

Return: Tru Line By Bernetha G. Letsch, County Clerk  
2333 Summers Lane  
Klamath Falls, OR 97603  
FEE \$30.00  
2.50 copy