

U.S. DEPARTMENT OF AGRICULTURE  
Forest ServiceVol M99 Page 21013

## AGRICULTURE IRRIGATION AND LIVESTOCK WATERING SYSTEM EASEMENT

Act of October 21, 1976

Act of October 27, 1986

(Pub. L. 99-545), 36 CFR 251,

Subpart B

THIS EASEMENT, is issued this 3rd day of May, 1999,  
by the UNITED STATES OF AMERICA, acting by and through the Forest Service,  
Department of Agriculture, hereinafter called Grantor, to NEWMAN ENTERPRISES,  
INC., a Corporation, of the State of OREGON, hereinafter called the Holder.

WHEREAS, the Holder has applied for an easement under Section 501 of the  
Federal Land Policy and Management Act of October 21, 1976, as amended by Pub.  
L. 99-545 (90 Stat. 2743; 43 U.S.C. 1761), for agricultural irrigation or  
livestock watering system facilities located over, across, or on the following  
lands owned by the United States on the Fremont National Forest, in the County  
of Klamath, State of Oregon:

## Devils Lake and Diversion Ditches

T. 37 S., R. 15 E., W.M.

sec. 32, E1/2

T. 38 S., R. 15 E., W.M.

sec. 3, N1/2SW1/4, SE1/4SW1/4,  
SW1/4SE1/4

sec. 4, N1/2NE1/4

## WITNESSETH

WHEREAS, upon acceptance of this easement the Holder relinquishes all right,  
title, and interest in and to any easement issued for the same lands by the  
United States by any previous grant or permit.

NOW THEREFORE, the United States does hereby grant, subject to valid existing  
rights, an easement for occupancy with water conveyance system facilities of  
lands as shown on Exhibit A, attached hereto and incorporated herein.

This easement is issued subject to the following terms, provisions, and  
conditions applicable to the Holder, its permittees, contractors, assignees,  
and successors in interest.

1. AUTHORIZED USE. This easement authorizes only the right-of-way and  
water conveyance system facilities as constructed and operated on October 21,  
1976, as specified herein.
2. EXTENSIONS or ENLARGEMENTS. This easement does not authorize  
extensions or enlargements of the water conveyance system.
3. FEES. This easement is issued free of charge.

Certified Correct to Description  
Conditions and ConsiderationDate 11/1/98Title Devils Lake and Diversion Ditches

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4. TRANSFERABILITY. This easement is fully transferable provided the water conveyance system facilities are used for agricultural irrigation or livestock watering. Holder shall notify Grantor within sixty (60) days of any address change or change in ownership.

5. TENURE. This easement shall continue for as long as the above described lands and water conveyance system facilities are used, operated, and maintained in accordance with the terms and conditions herein described.

6. OPERATION and MAINTENANCE.

a. Holder agrees to operate and maintain the facilities and use the authorized easement in accordance with applicable Federal, State, and local laws, regulations, and standards.

b. Holder shall notify, consult with, and obtain concurrence of the Grantor for operation and maintenance of the authorized facilities.

c. Holder agrees to install and maintain an operable headgate at each diversion structure. Such headgate shall be capable of controlling the amount of water entering the system.

d. Holder will not use fire or herbicides on the authorized right-of-way except as permitted in writing by the Grantor.

7. EMERGENCY REPAIRS.

a. Except for emergency repairs required to protect the environment, property of the United States, or public health and safety, the Holder may not use materials on National Forest System lands outside the easement prior to obtaining written authorization and paying for the materials to be used. Holder's use of material within the easement is limited to maintenance of the water conveyance system facility.

b. If the water conveyance system facilities authorized by this Easement are allowed to deteriorate to the point of threatening persons or property, and the Holder, after notification by the Grantor, refuses to perform the repairs and maintenance required to remove the threat to persons or property, Grantor shall have the right to undertake such repair and maintenance and to assess the Holder for the costs of such repair and maintenance, regardless of whether Grantor had required the Holder to furnish a bond or other security.

8. INDEMNIFICATION. Holder shall indemnify the United States against liability for any and all injury, loss, or damage, including fire suppression costs, that the United States may suffer as a result of claims, demands, losses, or judgements caused by the Holder's use or occupancy under this easement.

9. LIABILITY. Holder is liable for and agrees to repair damage to National Forest System lands caused by Holder's negligence, intentional acts, or of failure to comply with the terms and conditions of this easement or of any law or regulation applicable to the National Forests.

10. SITE RESTORATION. Holder shall, upon termination of this easement, stabilize the site as required by the Grantor. If Holder does not stabilize the site, the Holder agrees to pay the costs of such stabilization if undertaken by the Grantor.

11. SPECIAL PROVISIONS.

A. The holder agrees to permit the free and unrestricted access to and upon the premises at all times for all lawful and proper purposes not inconsistent with the intent of the easement or with the reasonable exercise and enjoyment by the holder of the privileges thereof.

B. Nothing in this easement shall be construed to imply permission to build or maintain any structure not specifically named on the face of this easement or approved by the authorized officer in the form of a new easement or easement or easement amendment.

C. This easement covers use of land only for flooding (reservoir) and water diversion (ditch segments). It is specifically understood that all upland areas including the shoreline and above the normal spillway-crest water level shall remain under the jurisdiction of the Forest Service. The Forest Service reserves the right to use and permit use of the land under easement; Provided, that such use does not interfere with the purposes for which this easement is granted.

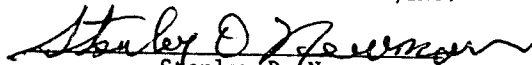
The foregoing notwithstanding, this easement is granted subject to the following reservations by Grantor, for itself, its permittees, contractors, and assigns.

A. NONEXCLUSIVE USE. The Grantor reserves the right to use or permit others to use the easement area, provided such use does not unreasonably interfere with the rights and privileges hereby authorized.

B. TERMINATION. This easement may be terminated with consent of Holder, or if Holder fails to exercise the rights and privileges authorized for any continuous period of five (5) years or more. This easement expires according to its terms if Holder uses the water conveyance system for any purpose other than agricultural irrigation or livestock watering. Grantor may take action to terminate this easement under 7 CFR 1.130 - 1.151, for noncompliance with applicable statutes and regulations, or the terms and conditions of this easement.

ACCEPTANCE On this 29 day of JULY, 1998, I, the undersigned Holder have read, understand, and accept the terms and conditions of this easement.

HOLDER: NEWMAN ENTERPRISES, INC.

  
Stanley D. Newman  
Vice President

The following certificate shall be executed by the Secretary or Assistant Secretary of the Corporation:

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation that accepted the above easement; that \_\_\_\_\_, who signed said easement on behalf of said Corporation was then \_\_\_\_\_ of said Corporation; that I know his/her signature, and that his/her signature on said easement is genuine; and that said easement was duly signed, sealed, and attested to for and on behalf of said Corporation by authority of its governing body.

(CORPORATE SEAL)

\_\_\_\_\_  
(Assistant) Secretary

IN WITNESS WHEREOF, the Secretary of Agriculture by the \_\_\_\_\_ Director of Recreation, Lands, and Mineral Resources, Forest Service, has executed this easement pursuant to delegations of authority specified in 7 CFR 2.60, 36 CFR 251.52, and delegation of authority by the Regional Forester published June 23, 1997, (62 F.R. 33826) on the day and year first above written.

UNITED STATES OF AMERICA

  
KIMBERLY EVART BOWN

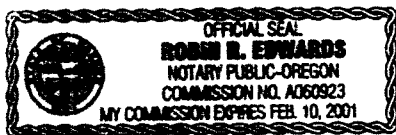
\_\_\_\_\_  
Director, Recreation,  
Lands, and Mineral Resources  
Pacific Northwest Region  
USDA Forest Service

## ACKNOWLEDGEMENT

STATE OF OREGON     )  
                              )ss.  
County of Multnomah)

On the 3rd day of May, 1999, a Notary Public within and for said State, personally appeared Kimberly Evert Bown, the same person who executed the within and foregoing instrument, who being by me duly sworn according to law, did say that he she executed said instrument as Director of Recreation, Lands, and Mineral Resources, Pacific Northwest Region, Forest Service, Department of Agriculture, and that said instrument was signed on behalf of the United States of America by its authority duly given and by him/her delivered as and for its act and deed. And he/she did further acknowledge that he she executed said instrument as the free act and deed of the United States of America, for the purpose and consideration herein mentioned and set forth, and I do hereby so certify.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above written.



Robin R. Edwards  
Notary Public for the State of Oregon  
Residing at Portland

21018

29 28  
32 33

**EXHIBIT A**  
1 OF 6

**2720 SPECIAL USE**

**USDA - FOREST SERVICE**

**PACIFIC NORTHWEST REGION**

**FREMONT NATIONAL FOREST**

**KLAMATH CO., OREGON**

**SEC 32, T.37 S., R.15 E., W.M.**

**SEC 3 & 4, T.38 S., R.15 E., W.M.**

**AGRICULTURAL EASEMENT - PL 99-545**

**DEVIL LAKE AND DITCHES**

**NEWMAN ENTERPRISES, INC.**

**45.1 ACRES**

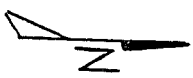
**43.96 AC - LAKE 1.16 AC - DITCH**

**REVIEWED BY:** Peter A. Clavin 4-1-95  
**APPROVED BY:** [Signature]  
FOREST ENGINEER

**LEGEND**

- ① SURVEY POINT
- SECTION CORNER
- 32 SECTION NUMBER

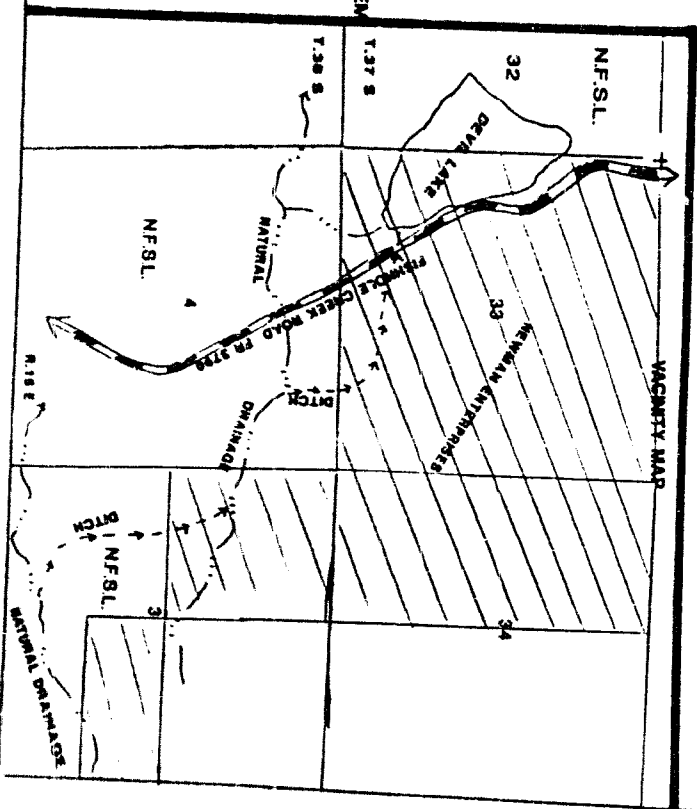
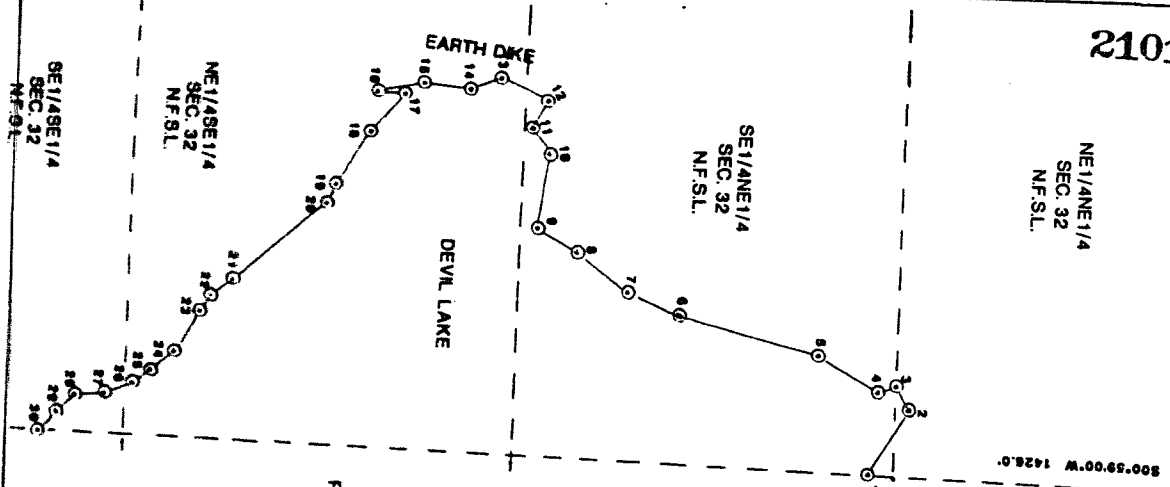
PROJECTED SUBDIVISION LINE  
N.F.S.L. NATIONAL FOREST SYSTEM LAND



**NEWMAN ENTERPRISES, INC.**  
**SEC. 33**

**METHOD OF SURVEY**  
RESOURCE GRADE GLOBAL POSTING SYSTEM  
**BASIS OF BEARING**  
ASSUMED FROM USGS QUAD MAP  
PARADISE MOUNTAIN, OR.

**SURVEYOR:** C. STEEDMAN  
**DATE SURVEYED:** 6/30/97  
**PLATTED BY:** C. STEEDMAN  
**DATE PLATTED:** 10/2/97



## TRAVERSE TABLE

EXHIBIT A  
DEVIL LAKE  
2 OF 6

SURVEY POINT	BEARING	DISTANCE
1		
2	N63° 03' 34" W	264.5'
3	S52° 05' 57" W	91.4'
4	S21° 51' 17" E	54.3'
5	S29° 51' 33" W	244.0'
6	S13° 46' 08" W	502.1'
7	S26° 00' 49" W	186.5'
8	S33° 18' 03" W	231.6'
9	S29° 44' 44" W	161.0'
10	N80° 30' 35" W	263.8'
11	S50° 45' 47" W	122.3'
12	N68° 34' 04" W	113.8'
13	S23° 37' 39" W	N. END-EARTH DIKE 164.8'
14	S18° 32' 19" E	125.4'
15	S06° 04' 37" W	148.5'
16	S13° 13' 41" E	168.0'
17	N02° 26' 08" E	S. END-EARTH DIKE 86.9'
18	S45° 10' 51" E	177.6'
19	S64° 31' 24" E	226.5'
20	S60° 27' 28" E	76.3'
21	S42° 54' 26" E	441.5'
22	S32° 39' 32" E	77.9'
23	S67° 30' 36" E	70.2'
24	S52° 15' 10" E	171.0'
25	S42° 36' 02" E	102.3'

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EXHIBIT A  
DEVIL LAKE

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## TRAVERSE TABLE

SURVEY POINT	BEARING	DISTANCE
25		
26	S37° 44' 00"E	83.4'
27	S21° 42' 39"E	101.7'
28	S07° 33' 31"E	111.7'
29	S44° 46' 57"E	84.9'
30	S44° 58' 37"E	79.4'
1	N00° 39' 54"E	2919.9'



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**EXHIBIT A**  
4 OF 6

2720 SPECIAL USE

USDA - FOREST SERVICE  
PACIFIC NORTHWEST REGION  
FREMONT NATIONAL FOREST

KLAMATH CO., OREGON

SEC 32, T.37 S., R.15 E., W.M.  
SEC 3 & 4, T.38 S., R.15 E., W.M.

AGRICULTURAL EASEMENT - PL 99-545

DEVIL LAKE AND DITCHES  
NEWMAN ENTERPRISES, INC.

45.1 ACRES

43.96 AC - LAKE 1.16 AC - DITCH

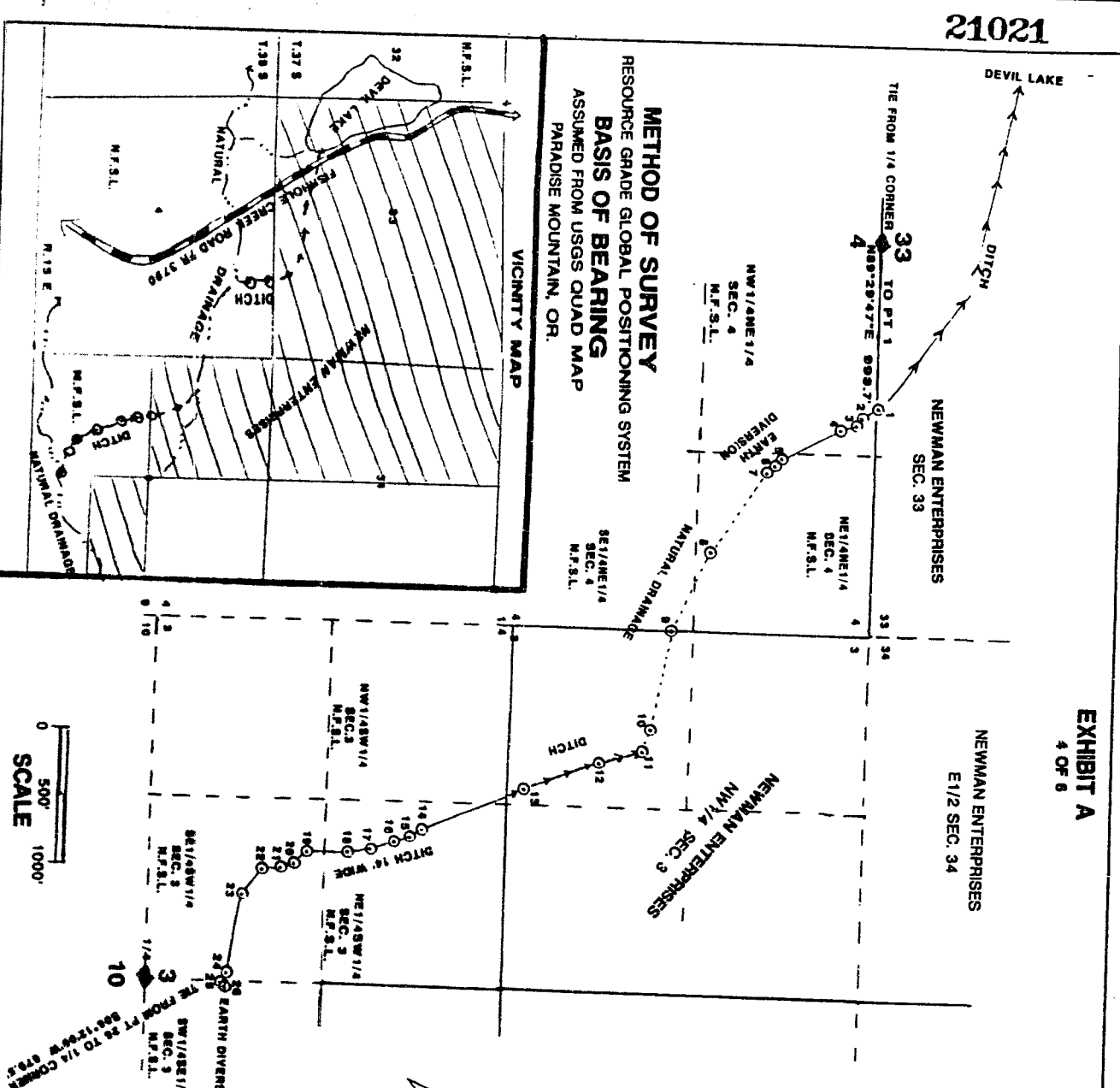
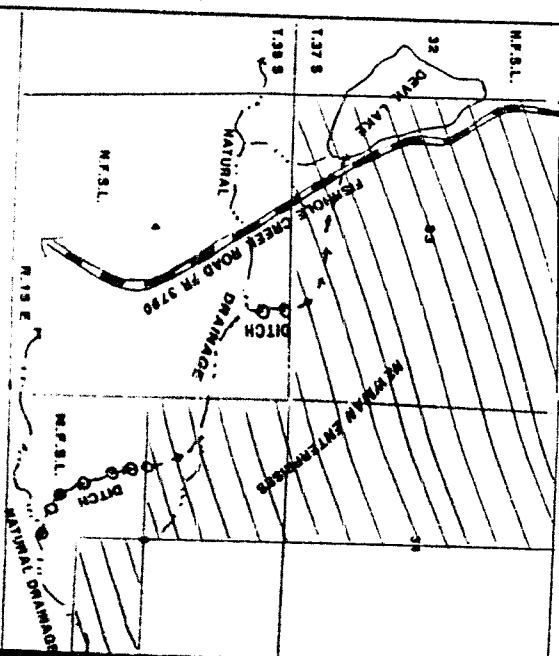
**LEGEND**

- SURVEY POINT
- DITCH (FOREST LAND)
- DITCH (PRIVATE LAND)
- NATURAL DRAINAGE
- OLD 1/4 CORNER
- SECTION NUMBER
- PROJECTED SUBDIVISION LINE
- PROJECTED PRIVATE LAND LINE
- NATIONAL FOREST SYSTEM LAND

**METHOD OF SURVEY  
BASIS OF BEARING**

RESOURCE GRADE GLOBAL POSITIONING SYSTEM  
ASSUMED FROM USGS QUAD MAP  
PARADISE MOUNTAIN, OR.

**VICINITY MAP**



REVIEWED BY: *[Signature]* 11/98

APPROVED BY: *[Signature]* FOREST ENGINEER

SURVEYOR: C STEEDMAN

DATE SURVEYED: 6/30/97

PLATTED BY: C STEEDMAN

DATE PLATTED: 10/3/97

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## EXHIBIT A

## DEVIL LAKE DITCHES

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## TRAVERSE TABLE

SURVEY POINT	BEARING	DISTANCE	
1			PVT/FS LINE
2	S31°00'05"E	159.2'	
3	S61°54'21"E	62.3'	
4	S17°31'04"E	133.8'	
5	S27°59'18"E	489.4'	
6	S58°07'25"E	EARTH DIVERSION 81.6'	
7	S38°34'46"E	EARTH DIVERSION 72.8'	
8	S56°01'00"E	BEGIN NATURAL DRAINAGE 741.0'	
9	S67°24'58"E	715.7'	
10	S79°13'42"E	PVT/FS LINE 728.6'	
11	S73°43'08"E	186.4'	
12	S15°31'19"E	NATURAL DRAIN/DITCH 345.6'	
13	S21°38'38"E	DITCH 582.2'	
14	S21°38'33"E	835.9'	PVT/FS LINE IS APPROXIMATELY 125' FROM PT 13 ALONG TRAVERSE LINE
15	S33°58'24"E	117.2'	
16	S21°03'08"E	122.5'	
17	S17°05'39"E	180.3'	
18	S10°04'26"E	184.5'	
19	S01°52'39"E	288.5'	
20	S44°33'07"E	134.8'	
21	S15°05'20"E	106.5'	
22	S06°55'56"E	135.7'	
23	S53°33'24"E	241.6'	
24	S79°16'14"E	551.5'	
25	S58°28'44"E	96.4'	

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## EXHIBIT A

DEVIL LAKE DITCHES

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## TRAVERSE TABLE

SURVEY POINT	BEARING	DISTANCE
25		EARTH DIVERSION
26	S15° 07' 40" E	21.9'
		EARTH DIVERSION

Fremont National Forest  
Hc10 Box 337  
Lakeview, Ok. 97630  
Attn. Richard Gooden