

In accordance with ORS 93.808, the Oregon Department of Environmental Quality approves the conveyance set forth in this instrument.

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

State of Oregon, County of Klamath

Recorded 01/29/2003 10:10 A m.

Vol M03 Pg 05292-5300

Linda Smith, County Clerk

Fee \$ 6.00 # of Pgs 9

[Signature]
Name

1-21-03
Date

EASEMENT AND EQUITABLE SERVITUDE

This Easement and Equitable Servitude is made _____, 200_ between the Klamath Community College (Grantor) and the Oregon Department of Environmental Quality (DEQ or Grantee).

RECITALS

A. Grantor is the owner of certain real property (Property) located at 7376 South Sixth Street, Klamath Falls, Klamath County, Oregon, the legal description of which is tax lot 3300 of the NE quarter of the NE quarter of Section 12, Township 39 South, Range 9 East of the Willamette Meridian, and shown on Exhibit 1 to this Easement and Equitable Servitude. The Easement and Equitable Servitude applies to the area shown on Exhibit 2 and described in Attachment A.

B. On October 8, 2002, the Director of the Oregon Department of Environmental Quality selected the remedial action for the Property set forth in the Record of Decision for the Property (ROD). The remedial action selected in the ROD requires institutional controls to:

1. Provide potential future owners or lessees with knowledge of site conditions;
2. Prohibit the installation and operation of water supply wells on the property without written approval of DEQ;
3. Prohibit the excavation work greater than four (4) feet in depth without prior written approval by DEQ;

After recording, return certified copies to:

06 *KCC, Attn: Mike Griffith, 7390 So. 6th St., Klamath Falls, OR 97603; and
DEQ-Bend Office, Attn: N. Toby Scott, 2146 NE Fourth St., Bend, OR 97701*

4. Assure monitoring and maintenance of the cap over residual contaminated soils; and
5. Assure that the site remain in industrial or commercial use.

C. The provisions of this Easement and Equitable Servitude are intended to protect human health and the environment.

NOW THEREFORE, in consideration for the foregoing, which is incorporated by reference, and the promises and obligations herein, the parties agree as follows:

1. GENERAL DECLARATION

Grantor declares that all real property located in Klamath County, State of Oregon, and shown in Exhibit 1 to this Easement and Equitable Servitude, is and shall be conveyed, transferred, leased, encumbered, occupied, built upon, or otherwise used or improved, in whole or in part, subject to this Easement and Equitable Servitude. Each condition and restriction set forth in this Easement and Equitable Servitude touches and concerns the Property and the easement granted in paragraph 4 herein, shall run with the land for all purposes, shall be binding upon all Owners as set forth in this Easement and Equitable Servitude, and shall inure to the benefit of the State of Oregon. Grantor further conveys to DEQ the perpetual right to enforce the conditions and restrictions set forth in this Easement and Equitable Servitude.

2. DEFINITIONS

2.1 "DEQ" means the Oregon Department of Environmental Quality, and its employees, agents, and authorized representatives acting on its behalf. "DEQ" also means any successor or assign of DEQ under the laws of Oregon, including but not limited to any entity or instrumentality of the State of Oregon authorized to perform any of the functions or to exercise any of the powers currently performed or exercised by DEQ.

2.2 "Owner" means any person or entity, including Grantor, who is the record owner of fee simple title or a vendee's interest of record to any portion of the Property,

including any successor or holder of fee simple title or a vendee's interest of record to any portion of the Property, excluding any entity or person who holds such interest solely for the security for the payment of an obligation.

3. EQUITABLE SERVITUDE
(RESTRICTIONS ON USE)

3.1 No use shall be made of shallow (less than 25 feet) groundwater at the Property, by extraction through wells or by other means, which use involves consumption or other beneficial use of the groundwater. This prohibition shall not apply to extraction of groundwater associated with temporary dewatering activities related to construction, development, or the installation of sewer or utilities at the Property.

3.2 Except upon prior written approval from DEQ, no operations or uses shall be made on or of the Property that will or likely will penetrate the asphalt/concrete surface cover or jeopardize the cover's functional integrity, including without limitation any excavation, drilling, scraping, or erosion. The Owner of the Property shall maintain the surface cover and any other permanent feature of the remedy described in the ROD in accordance with a monitoring and maintenance plan approved in writing by DEQ.

3.3 The following operations and uses are prohibited on the Property:

- 3.3.a Residential use of any type; and
- 3.3.b Agricultural use of any type.

4. EASEMENT
(RIGHT OF ENTRY)

During reasonable hours and subject to reasonable security requirements, DEQ as Grantee shall have the right to enter upon and inspect any portion of the Property to determine whether the requirements of this Easement and Equitable Servitude have been or are being complied with. Violation of any condition or restriction contained in this Easement and Equitable Servitude shall give to DEQ the right, privilege, and license to enter upon the Property where such violation exists and to abate, mitigate, or cure such violation at the expense of the Owner, provided written notice of the violation is given to the Owner

describing what is necessary to correct the violation and the Owner fails to cure the violation within the time specified in such notice. Any such entry by DEQ shall not be deemed a trespass, and DEQ shall not be subject to liability to the Owner of the Property for such entry and any action taken to abate, mitigate, or cure a violation.

5. GENERAL PROVISIONS

5.1 Grantor shall record this Easement and Equitable Servitude in the records of deeds of real property in the county where the Property is located, such recordation being expressly authorized by statute including, without limitation, ORS 93.710.

5.2 All conditions and restrictions contained in this Easement and Equitable Servitude shall run with the land, until such time as any condition or restriction is removed by written certification from DEQ that the condition or restriction is no longer required in order to protect human health or the environment.

5.3 Any person who at any time owns, occupies, or acquires any right, title, or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every condition and restriction contained in this Easement and Equitable Servitude, whether or not any reference to this Easement and Equitable Servitude is contained in the instrument by which such person or entity acquired an interest in the Property.

5.4 The Owner of any portion of the Property shall notify DEQ at least ten (10) days before the effective date of any conveyance, grant, gift, or other transfer, in whole or in part, of the Owner's interest in the Property.

5.5 The Owner of the Property shall notify DEQ within thirty (30) days following Owner's petitioning for or filing of any document initiating a rezoning of the Property that would change the base zone of the Property under the ~~City of Klamath Falls~~ zoning code or any successor code. County (RMF) (JA)

5.6 Upon any violation of any condition or restriction contained in this Easement and Equitable

Servitude, DEQ, in addition to the remedies described in paragraph 4, may enforce this Easement and Equitable Servitude, or may seek any other available legal or equitable remedy to enforce this Easement and Equitable Servitude.

IN WITNESS WHEREOF Grantor and Grantee have executed this Easement and Equitable Servitude as of the date and year first set forth above.

GRANTOR:

Renee M Ferguson
Klamath Community College

STATE OF OREGON)
) ss.
County of _____)

The foregoing instrument is acknowledged before me this 8th day of January, 2003, by Michael S. Shaffer of KLAMATH COMMUNITY COLLEGE, on its behalf.



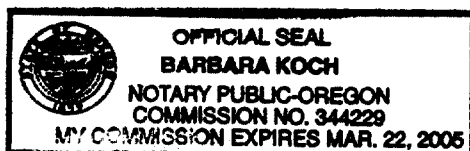
Linda Miranda
NOTARY PUBLIC FOR OREGON
My commission expires: 9/25/05

GRANTEE:

Jim Hammond
State of Oregon Department
of Environmental Quality

STATE OF OREGON)
) ss.
County of UMATILLA)

The foregoing instrument is acknowledged before me this 21st day of JANUARY, 2003, by Jim Hammond of THE DEPT. OF ENVIRONMENTAL QUALITY, on its behalf.



Barbara Koch
NOTARY PUBLIC FOR OREGON
My commission expires: March 22, 2005

OWNERS

DENNIS ENSOR O.L.S., C.W.R.E.
SANDIE ENSOR

TRU SURVEYING, INC. LINE

2333 SUMMERS LANE
KLAMATH FALLS, OREGON 97603
PHONE: (541) 884-3691

05297

JOHN HEATON L.S.I.T.

DECEMBER 11, 2002

AN AREA BEING A PORTION OF BLOCK 1 OF "HILYARD TRACTS", A DULY RECORDED SUBDIVISION, SITUATED IN THE NE1/4 OF SECTION 12, T39S, R9EWM, KLAMATH COUNTY OREGON:

BEGINNING AT A POINT, FROM WHICH THE NORTHEAST CORNER OF SAID SECTION 12 BEARS N19°56'56"E 1166.11 FEET; THENCE S44°28'22"E 55.58 FEET; THENCE S45°34'18"W 147.50 FEET; THENCE N05°33'00"W 71.40 FEET; THENCE N45°34'18"E 102.64 FEET TO THE POINT OF BEGINNING, WITH BEARINGS BASED ON RECORD OF SURVEY 6642 AS FILED IN THE OFFICE OF KLAMATH COUNTY SURVEYOR.



Dennis A. Ensor
DENNIS A. ENSOR O.L.S. 2442

EXPIRES: 12/31/03

ATTACHMENT A

05298

39 09 12AA

NE1/4 NE1/4 SEC. 12 T.39S. R.09E. WM.
KLAMATH COUNTY

1"=400'

SEE MAP 39 08 0800

WATSON ST.

AVE.

7

6

5

4

3

2

1

0

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

83

84

85

86

87

88

89

90

91

92

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

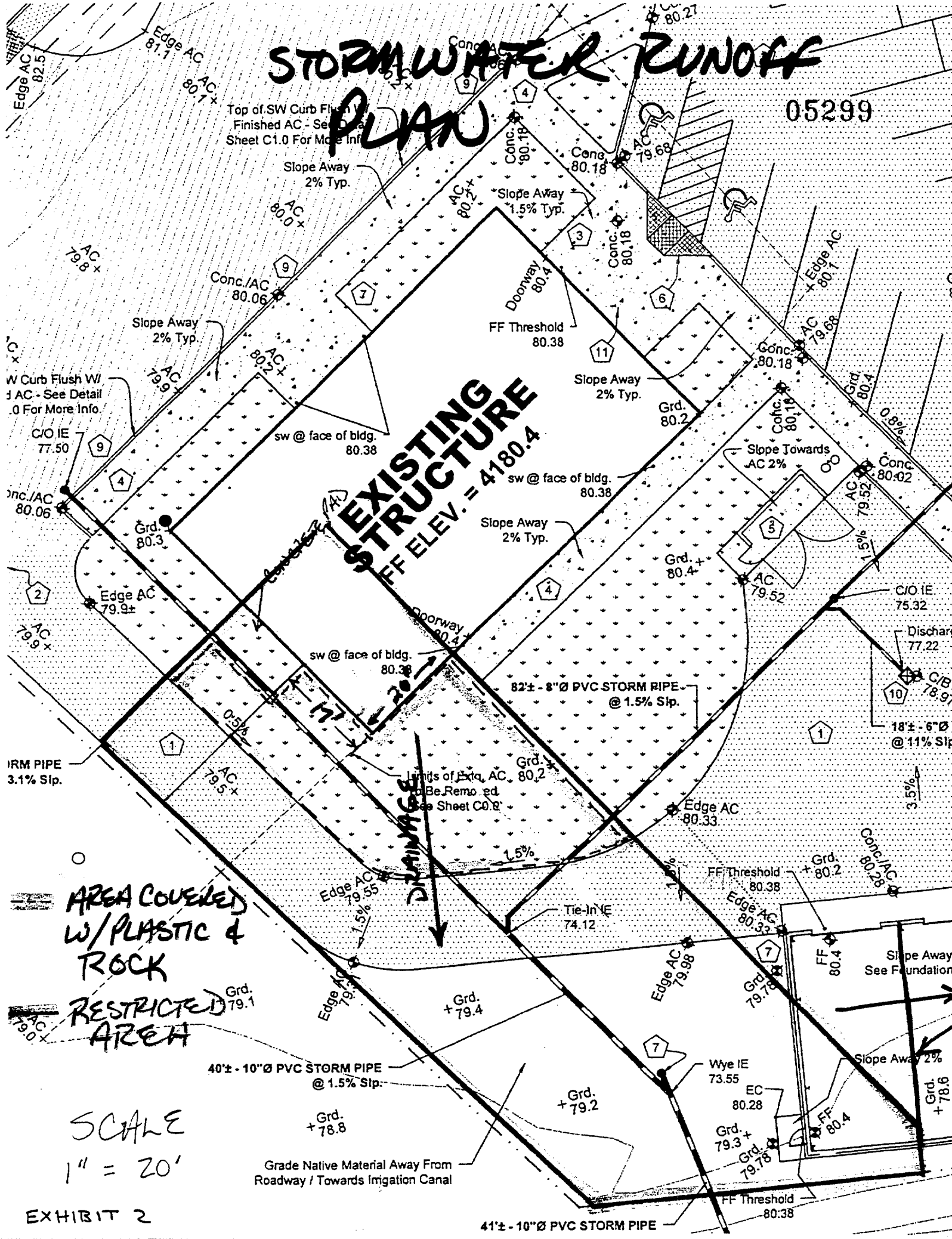
329

330

331

STORM WATER RUNOFF PLAN

05299



EXISTING STRUCTURE
FF ELEV. = 4180.4

DRAINAGE

AREA COVERED
W/ PLASTIC &
ROCK

RESTRICTED
AREA

SCALE
1" = 20'

05300
RECEIVED

JAN 13 2003

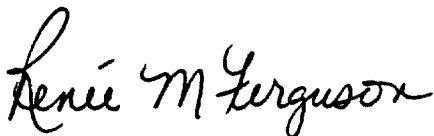
Eastern Region - Banc

MONITORING AND MAINTENANCE PLAN

The purpose of this plan is to comply with the engineering remedy as required in the Easement and Equitable Servitude (E&ES) for the Area to be Restricted as described in the legal description of the property as follows:

The following actions will be taken by Klamath Community College;

1. To insure that the cap over the residual contaminated soils in the Restricted Area is effective the College will inspect the cap semi-annually, in the spring and in the fall. The inspections will look for any deterioration of the plastic sheeting in the areas landscaped with decorative rock and any cracking in the paved areas.
2. The College will repair or replace any part of the cap that is found to be damaged or has deteriorated since the last inspection. Plastic sheeting which has been punctured or has deteriorated will be replaced as needed. Any cracks in paved areas will sealed with an appropriate sealer.
3. The College will comply with all "Restrictions on Use" as outlined in the E&ES.



Renee Ferguson
Dean for Administrative Services
Klamath Community College

Date: January 8, 2003