

EASEMENT

Between
The Hilbert Family Trust
32955 Highway 97 North
Chiloquin, OR 97624

And
Modoc Point Irrigation District
P.O. Box 278
25985 Modoc Point Road
Chiloquin, OR 97624

After recording, return to (Name, Address, ZIP)

Chuck Korson
Bureau of Reclamation
6600 Washburn Way
Klamath Falls, OR 97603

STATE OF OREGON,
County of Klamath

} ss.

2008-005420

Klamath County, Oregon

SPACE RESERVED
FOR
RECORDER'S USE



00044199200800054200090091

04/14/2008 12:41:40 PM

Fee: \$45.00

THIS AGREEMENT, made and entered to on this 20 day of MARCH, 2008, by and between The Hilbert Family Trust, hereinafter called the Grantor, and Modoc Point Irrigation District, hereinafter called the Grantee, WITNESSETH:

WHEREAS: The Grantor is the record owner of the following described real property in Klamath County, State of Oregon to-wit:

Main Access Road to Williamson River Irrigation Pump Plant and Hilbert Irrigation Pump Stations (See exhibit "A"):

A 16 foot wide easement for the purpose of ingress and egress within Sections 9, 10, 15, 16 and 21; Township 35 South, Range 7 East, Willamette Meridian, the centerline of which being more particularly described as follows with bearings based upon Klamath County Survey number 3606:

Commencing at a point on the easterly right-of-way line of U.S. Highway 97 being S37°59'52"W, 3013.34 feet from the Northeast Corner of Section 21; thence S38°26'32"E, 175.30 feet to the point of curvature of 100.00 foot radius to the left; thence along said curve 117.28 feet (the long chord of which bears S72°02'27"E, 110.67 feet); thence leaving said curve N74°21'38"E, 20.35 feet to the point of curvature of a 1311.90 foot radius curve to the left; thence along said curve 208.41 feet (the long chord of which bears N69°48'34"E, 208.41 feet) to a point of compound curvature and a 214.77 foot radius curve to the left; thence along said curve 166.78 feet (the long chord of which bears N43°00'42"E, 162.62 feet); thence N20°45'54"E, 178.26 feet; thence N27°37'40"E, 270.47 feet; thence N23°24'28"E, 222.40 feet; thence N10°10'23"E, 158.95 feet to the point of curvature of a non-tangent 3225.00 foot radius curve to the right; thence along said curve 516.93 feet (the long chord of which bears N23°28'19"E, 516.38 feet); thence N28°03'49"E, 92.73 feet; thence N24°00'53"E, 501.09 feet; thence N24°42'59"E, 615.27 feet; thence N21°08'21"E, 11.72 feet to a point WEST and 294.57 feet from said Section Corner; thence continuing along same bearing 245.97 feet; thence N19°29'19"E, 167.85 feet; thence N18°31'01"E, 236.70 feet; thence N14°12'44"E, 278.72 feet; thence N12°21'31"E, 183.54 feet to a point on the line between Sections 15 and 16, said point being N1°46'54"E, 1062.09 feet from said Section Corner; thence continuing along same bearing 111.12 feet; thence N18°43'25"E, 179.00 feet; thence N6°22'37"E, 373.96 feet; thence N4°01'07"E, 182.47 feet; thence N14°01'25"W, 158.28 feet; thence N6°54'12"E, 333.94 feet; thence N8°23'43"E, 396.51 feet; thence N4°59'14"E, 292.28 feet; thence N6°10'32"E, 193.56 feet; thence N11°01'58"E, 123.19 feet; thence N1°24'25"E, 189.84 feet; thence N8°06'11"E, 260.59 feet; thence N3°03'30"E, 200.43 feet; thence N40°04'48"W, 87.58 feet; thence S83°38'32"W, 126.09 feet; thence S78°08'27"W, 42.85 feet to a point on the line between Sections 15 and 16, said point being S1°46'54"W, 1212.42 feet from the corner common to Sections 9, 10, 15 and 16; thence continuing on same bearing 598.65 feet to the point of curvature of a 55.00 foot radius curve to the right; thence along said curve 81.46 feet (the long chord of which bears N59°19'05"W, 74.21 feet); thence N16°53'22"W, 147.76 feet; thence N36°21'19"W, 186.93 feet; thence N61°11'44"W, 89.51 feet; thence N43°00'31"W, 144.64 feet to the point of curvature of a 75.00 foot radius foot curve to the right; thence along said curve 77.67 feet (the long chord of which bears N13°20'32"W, 74.24 feet); thence N16°19'26"E, 44.04 feet to the point of curvature of a 100.00 foot radius curve to the right; thence along said curve 53.00 feet (the long chord of which bears N31°30'34"E, 52.39 feet); thence N46°41'41"E, 158.91 feet to the point of curvature of a 100.00 foot radius curve to the left; thence along said curve 68.70 feet (the long chord of which bears N27°00'50"E, 67.36 feet); thence N7°19'58"E, 55.63 feet to the point of curvature of a 100.00 foot radius curve to the right; thence along

said curve 42.23 feet (the long chord of which bears N19°25'47"E, 41.91 feet); thence N31°31'36"E, 170.77 feet; thence N24°00'39"E, 86.82 feet to the point of curvature of a 300.00 foot radius to the right; thence along said curve 196.98 feet (the long chord of which bears N42°49'17"E, 193.46 feet); thence N61°37'54"E, 69.58 feet to the point of curvature of a 478.94 foot radius curve to the left; thence along said curve 62.97 feet (the long chord of which bears N57°51'56"E, 62.92 feet) to a point WEST of and 457.71 feet from the corner common to Sections 9, 10, 15 and 16; thence continuing along same curve 135.80 feet (the long chord of which bears N45°58'35"E, 135.34 feet); thence N37°51'13"E, 439.92 feet; thence N30°16'36"E, 179.37 feet to a point NORTH of and 596.31 feet from the corner common to Sections 9, 10, 15 and 16; thence continuing along same bearing 197.73 feet; thence N26°19'56"E, 155.32 feet; thence N36°11'12"E, 74.01 feet; thence N28°16'27"E, 308.93 feet to the ending point which bears N16°09'15"E, 1288.98 feet from the corner common to Sections 9, 10, 15 and 16.

Williamson River Pump Plant (See exhibits "A" and "B"):

An easement for the purpose of constructing and maintaining an irrigation pumping facility in the Northeast quarter of Section 21, Township 35 South, Range 7 East, Willamette Meridian; being more particularly described as follows with bearings based upon Klamath County Survey number 3606:

Commencing at a point which bears S45°35'36"W, 1317.53 feet from the Northeast Corner of Section 21; thence S5°57'45"W, 97.59 feet; thence S48°47'11"W, 228.51 feet; thence N45°34'53"W, 131.20 feet; thence N48°47'11"E, 322.91 feet; thence S29°65.75 feet to the point of beginning.

Excepting any land below the mean high water line of the Williamson River.

Williamson River Pump Plant Access Road (See exhibits "A" and "B"):

A 16 foot wide easement for the purpose of ingress and egress within the Northeast quarter of Section 21, Township 35 South, Range 7 East, Willamette Meridian, the centerline of which being more accurately described as follows with bearings based upon Klamath County Survey number 3606:

Commencing at a point S35°47'18"W, 1445.76 from the Northeast corner of Section 21 and being the beginning of a 150.00 foot radius curve to the left; thence along said curve 133.90 feet (the long chord of which bears S89°49'42"W, 129.50 feet); thence S64°15'17"W, 4.85 feet to a 110.00 foot radius curve to the right; thence along said curve 145.92 feet (the long chord of which bears N77°44'35"W, 135.45 feet).

Williamson River Pump Plant Pipeline (See exhibits "A" and "B"):

A 30.00 foot wide easement for the purpose of operation and maintenance of a pipeline to supply irrigation water to the Grantee within the Northeast Quarter of Section 21, Township 35 South, Range 7 East, Willamette Meridian; the centerline of which being more particularly described as follows based upon bearings per Klamath County Survey number 3606:

Commencing at a point which bears S46°13'00"W, 1484.08 feet from the Northeast Section Corner of Section 21; thence S50°30'20"W, 10.00 feet; thence S11°34'17"W, 626.10 feet; thence S19°30'55"W, 672.47 feet; thence S8°03'30"W, 286.90 feet; thence S70°15'29"W, 20.00 feet to a point which bears S30°04'29"W, 2972.21 feet from said Section Corner.

Hilbert Pump Station Number Two (See exhibits "A" and "C"):

An easement for the purpose of constructing and maintaining an irrigation pumping facility in the Northeast Quarter of Section 16, Township 35 South, Range 7 East, Willamette Meridian, being more accurately described as follows with bearings based upon Klamath County Survey number 3606:

Commencing at a point that bears N48°18'50"W, 865.81 feet from the East Quarter Corner of Section 16; thence S89°00'55"W, 55.00 feet; thence N10°54'49"W, 40.61 feet; thence N89°00'55"E, 55.00 feet; thence S10°54'49"E, 40.61 feet to the Point of Beginning.

Excepting any land contained below the mean high water line of the Williamson River.

Hilbert Pump Station Number Two Access Road (See exhibits "A" and "C"):

A 16.00 foot wide easement for the purpose of ingress and egress within the Northwest Quarter of Section 15 and the Northeast Quarter of Section 16, Township 35 South, Range 7 East, Willamette Meridian, the centerline of which more particularly described as follows with the bearings based upon Klamath County Survey number 3606:

Commencing at a point that bears N52°20'56"E, 180.75 feet from the quarter corner common to Sections 15 and 16; thence N76°20'18"W, 259.46 feet to a 110.00 foot radius curve to the right; thence along said curve 85.92 feet (the long

chord of which bears N53°57'44"W, 83.75 feet); thence N31°35'11"W, 110.21 feet; thence N1°46'11"W, 96.87 feet; thence N37°00'36"W, 249.45 feet; thence S89°18'50"W, 224.32 feet; thence S79°05'11"W, 40.17 feet.

Hilbert Pump Station Number One (See exhibits "A" and "D"):

An easement for the purpose of constructing and maintaining an irrigation pumping facility in the Southwest Quarter of Section 10, Township 35 South, Range 7 East, Willamette Meridian, being more accurately described as follows with bearings based upon Klamath County Survey number 3606:

Commencing at a point that bears N71°38'47"E, 1290.90 feet from the Southwest Corner of Section 10; thence N76°11'31"W, 113.23 feet, thence N22°27'05"E, 55.70 feet; thence S64°09'13"E, 107.21 feet; thence S13°48'29"W, 32.70 feet to the Point of Beginning.

Excepting any land contained below the mean high water line of the Williamson River.

NOW, THEREFORE, in view of the premises and in consideration of one dollar (\$1.00) by the Grantee to the Grantor, the receipt of which is acknowledged by the Grantor, it is agreed:

The Grantor does hereby grant, bargain, convey and confirm unto the Grantee, its successor and assigns, the rights, privilege, and exclusive easement to layout, construct, reconstruct, inspect, operate, and maintain the pumping plant, pumping stations, pipelines, fish screens, together with all necessary appurtenances, fixtures, facilities, and devices, used or useful in the operation of said project through, over, under, and across the lands as shown on Exhibits A, B, C, and D, all of which Exhibits are attached hereto and made a part hereof.

The Grantee shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim, and remove trees, brush, overhanging branches and other obstructions) necessary for the Grantee's use, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the Grantor shall have full use and control of the above described real estate.

The Grantee agrees to save and hold the Grantor harmless from any and all claims of third parties arising from the Grantee's use of the rights herein granted.

The period of this easement shall be perpetual, always subject, however, to the following conditions, restrictions, and considerations:

The Grant of Easement herein contained is subject to existing rights-of-way for highways, roads, railroads, canals, laterals, ditches, pipelines, electrical transmission lines, telegraph and telephone lines on, over and across the lands described in said Exhibits A, B, and C, and to any mineral rights of record outstanding in third parties on the date of this Contract.

Use of the easement is limited to the Grantee's manager, board members, and approved personnel, for the sole purpose of operation, maintenance, and rehabilitation of the main pumping plant, two pump stations, and associated pipelines and fish screens.

Use of easement for access to pump stations one and two is limited to two of the Grantee's approved personnel. Use of easement for access to pump stations one or two by more than two of the Grantee's approved personnel requires prior notice to Grantor of at least twelve (12) hours.

The area surrounding the main pumping plant (the yard) shall not be used for storing vehicles, materials, or equipment of any kind which is not necessary for the operation, maintenance, or rehabilitation of the main pumping plant, two pump stations, and associated pipelines and fish screens. Any other materials placed on or in the yard must be used or removed within seven (7) days of completion of specific maintenance or rehabilitation work being completed, unless otherwise agreed to in writing by Grantor.

Grantee shall provide notice in advance of scheduled maintenance, rehabilitation, or repair which requires the use of heavy equipment in order to minimize disruption of Grantors business.

During the existence of this easement, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events which occur during the period of use by the Grantee for that section

of Grantor's road from Highway 97 to the point of ingress to the Grantee's pumping plant road (hereafter Grantee's pumping plant access) will be equally shared by Grantor and Grantee.

Grantee shall provide aggregate road material of a similar type and composition as that used upon the remainder of Grantor's road to maintain the Grantee's pumping plant access road in a condition equal to or better than that of said road on the date the Grantee's pumping plant is officially commissioned and operations transferred to the Grantee.

Grantee shall provide aggregate in intervals of three (3) years if mutually determined necessary, but not greater than five (5) year intervals. Grantor will be responsible for placing/spreading the aggregate.

Grantee shall be solely responsible for that section of access road from the Grantee's pumping plant out to the intersection of Lonesome Duck access road. Grantee shall maintain road in a condition equal to or better than that of said road on the date the Grantee's pumping plant is officially commissioned and operations transferred to the Grantee.

Grantor shall be solely responsible for maintaining the access road from the Grantee's pumping plant access, north to pump station one and pump station two.

During the existence of this easement, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

This agreement shall bind and inure to the benefit of, as circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

Notwithstanding any term in this easement to the contrary, the easement shall terminate at such time as:

1. The Grantee abandons the main pumping plant without an intention to resume operations, or damages or destroys the main pumping plant and fails to repair or replace such facilities within a commercially reasonable time; or
2. The Grantee operates and maintains the pumping plant in such a way that (a) triggers the reconveyance clause relating to the termination of use of the property and the pumping plant in Exhibit A to the Statutory Warranty Deed between Jeld-Wen and Hilbert, recorded at Vol. M04, Pg. 83562-63, County of Klamath, State of Oregon, and (b) Jeld-Wen exercises that clause.

Should the Grantee not comply with the restrictions contained in this easement, the Grantee shall pay to the Grantor a fee of \$50.00 per day for each day of said non-compliance. Grantor shall provide a three (3) day notice, and allow a five (5) day cure period for each instance of non-compliance.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

The Hilbert Family Trust

By - 

Grantor

STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on 20 March 2008.
by DEBBIE P. HILBERT

This instrument was acknowledged before me on 20 March 2008.
by DEBBIE P. HILBERT
as GRANTOR
of HILBERT FAMILY TRUST

Barbara J. Kirk
Notary Public for Oregon

My commission expires 9.14.2010

Modoc Point Irrigation District

By [Signature]

Grantee



STATE OF OREGON, County of Klamath) ss.

This instrument was acknowledged before me on 20 March 2008.
by CHARLES V. HARREL

This instrument was acknowledged before me on 20 March 2008.
by CHARLES V. HARREL
as GRANTEE
of MODOC POINT IRRIGATION DISTRICT

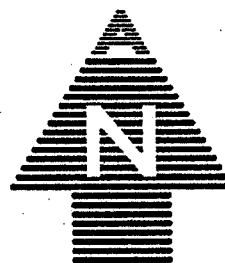
Barbara J. Kirk
Notary Public for Oregon

My commission expires 9.14.2010



9

10



1 INCH = 1000 FT.

HILBERT PUMP
SITE NO. 1

SOUTHERN PACIFIC RAILROAD

MAIN ACCESS
ROAD

HILBERT PUMP SITE
NO. 2 AND ACCESS
ROAD

16

15

WILLIAMSON
RIVER

U.S. HWY. 97

WILLIAMSON RIVER PUMP
PLANT, ACCESS ROAD AND
PIPELINE

P.O.B.

21

22

MAIN ACCESS
ROAD

ADKINS

CONSULTING
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

2950 Shasta Way · Klamath Falls, Oregon 97603 · (541) 884-4866 · FAX (541) 884-5335
Klamath Falls, OR · Medford, OR · Alturas, CA

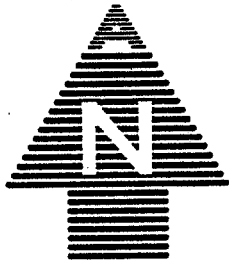
JAN., 2007

HILBERT

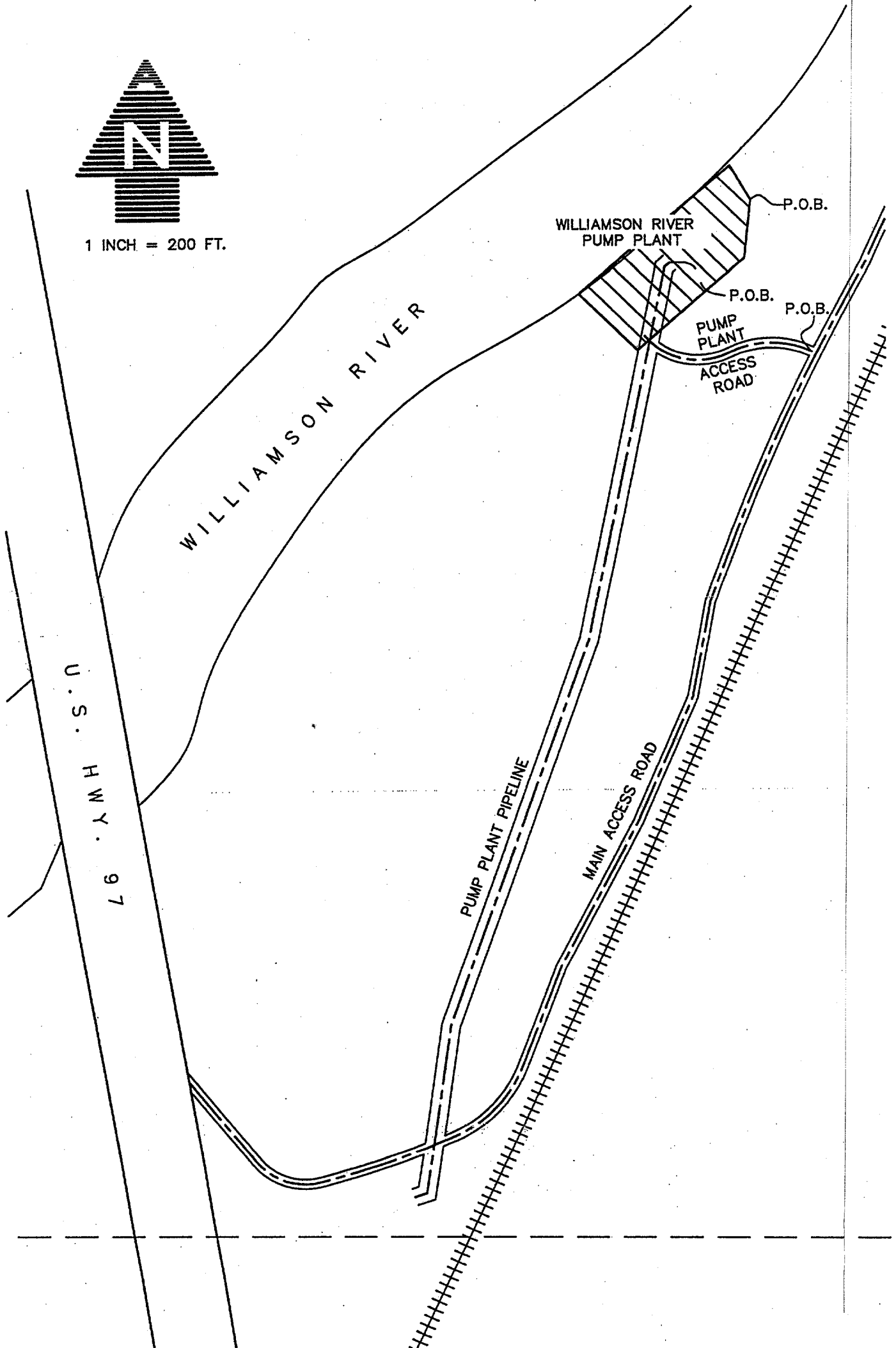
1754-25

EXHIBIT "A"

MAIN ACCESS ROAD
FOR WILLIAMSON RIVER
PUMP STATIONS, SECONDARY
ACCESSES AND PIPELINE



1 INCH = 200 FT.



ADKINS



CONSULTING
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

2950 Shasta Way • Klamath Falls, Oregon 97603 • (541) 884-4866 • FAX (541) 884-5335
Klamath Falls, OR • Medford, OR • Alturas, CA

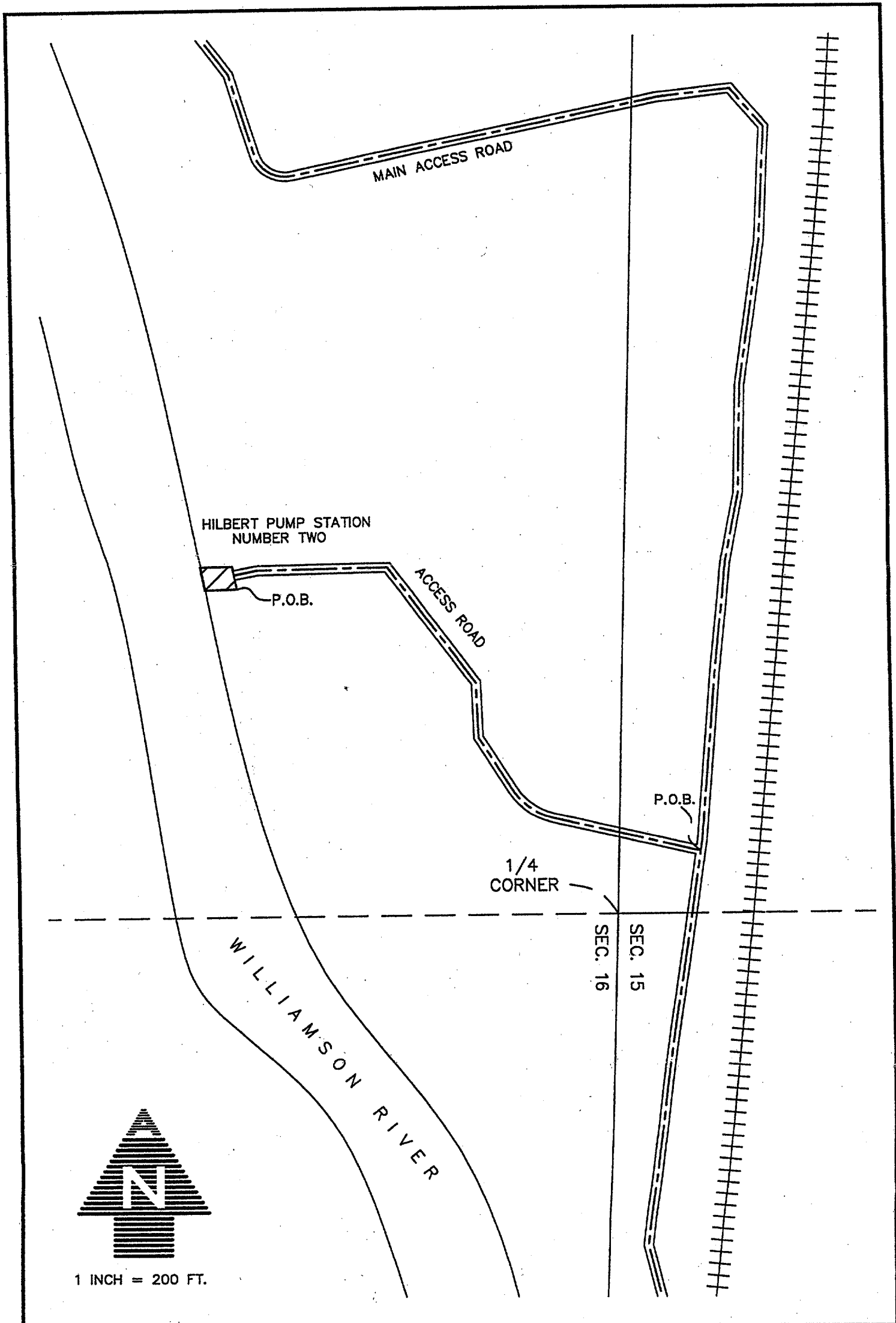
JAN., 2007

HILBERT

1754-25

EXHIBIT "B"

WILLIAMSON RIVER PUMP
PLANT, ACCESS ROAD
AND PIPELINE



ADKINS



CONSULTING
ENGINEERS, INC.

Engineers ▲ Planners ▲ Surveyors

2950 Shasta Way · Klamath Falls, Oregon 97603 · (541) 884-4886 · FAX (541) 884-5335
Klamath Falls, OR · Medford, OR · Alturas, CA

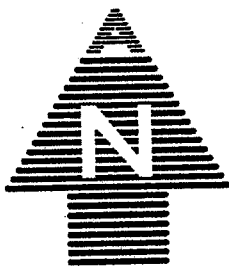
JAN., 2007

HILBERT

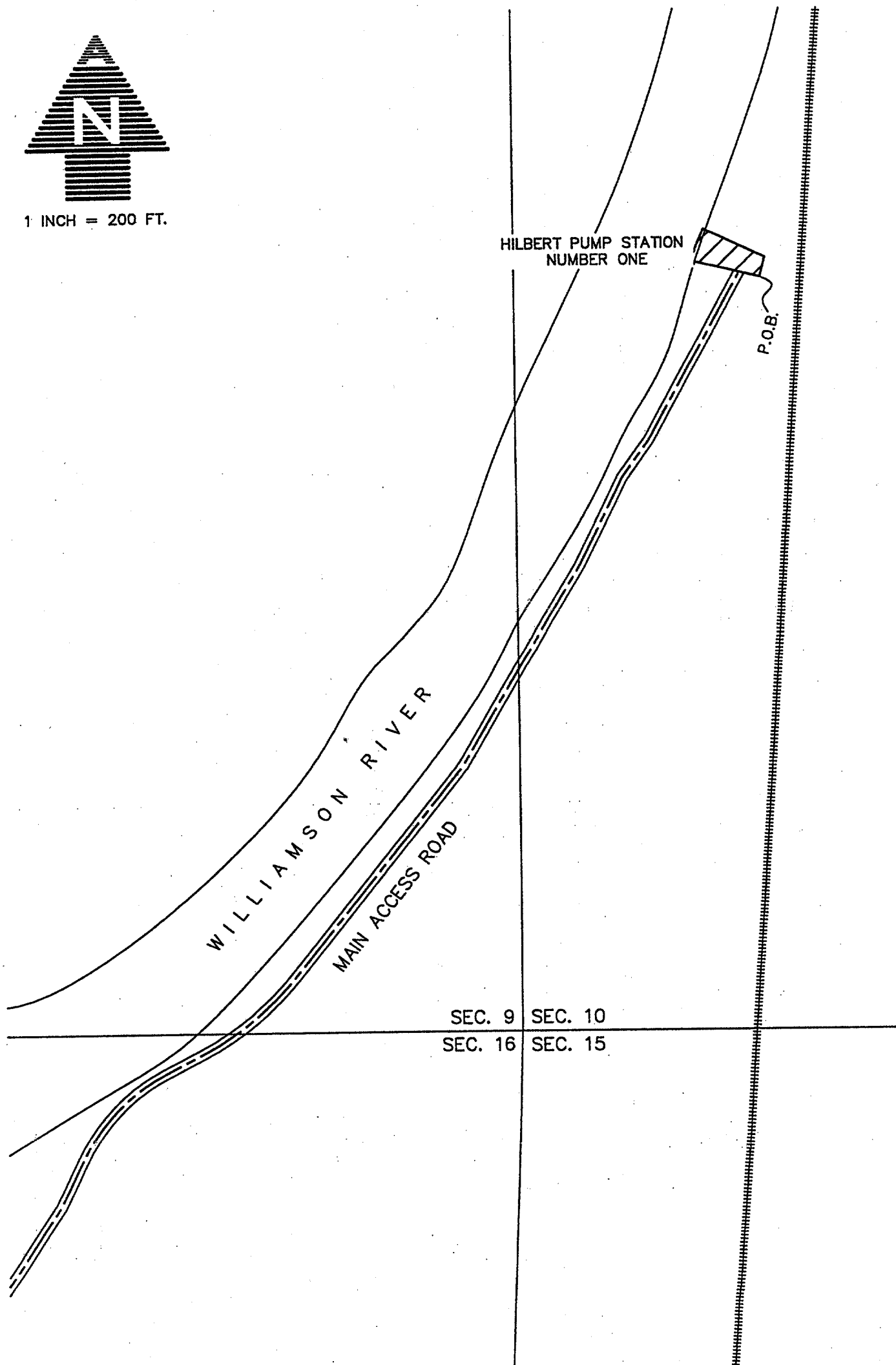
1754-25

EXHIBIT "C"

HILBERT PUMP STATION
NUMBER TWO
AND ACCESS ROAD



1 INCH = 200 FT.



ADKINS

CONSULTING
ENGINEERS, INC.

2950 Shasta Way • Klamath Falls, Oregon 97803 • (541) 884-4666 • FAX (541) 884-5335
Klamath Falls, OR • Medford, OR • Alturas, CA

JAN., 2007

Engineers ▲ Planners ▲ Surveyors

HILBERT

1754-25

EXHIBIT "D"

HILBERT PUMP STATION
NUMBER ONE