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U.S. Department of Agriculture  
Natural Resources Conservation Service

**2014-013213**  
Klamath County, Oregon  
12/23/2014 01:15:30 PM  
Fee: \$147.00

NRCS-LTP-33  
4/2010

## RESERVED RIGHTS PILOT WARRANTY EASEMENT DEED

**WETLANDS RESERVE PROGRAM**  
EASEMENT NO. 66-0436-12-017RD

**THIS WARRANTY EASEMENT DEED** is made by and between  
G Bar W Land and Cattle Co. of  
300 Rd. 49 Off Silver Lake Hwy., Central Point, Klamath County, Oregon (hereafter  
referred to as the "Landowner"), Grantor(s), and **the UNITED STATES OF  
AMERICA**, by and through the Commodity Credit Corporation (CCC) (hereafter  
referred to as the "United States"), Grantee. The Landowner and the United States are  
jointly referred to as the "Parties". The acquiring agency of the United States is the  
Natural Resources Conservation Service (NRCS), United States Department of  
Agriculture.

### Witnesseth:

**Purposes and Intent.** The purpose of this easement is to restore, protect, manage, maintain, and enhance the functional values of wetlands and other lands, and for the conservation of natural values including fish and wildlife and their habitat, water quality improvement, flood water retention, groundwater recharge, open space, aesthetic values, and environmental education. It is the intent of NRCS to give the Landowner the opportunity to participate in the restoration and management activities on the easement area. By signing this deed, the Landowner agrees to the restoration of the easement area and grants the right to carry out such restoration to the United States.

**Authority.** This easement deed acquisition is authorized by Title XII of the Food Security Act of 1985, as amended (16 U.S.C. §3837), for the Wetlands Reserve Program.

**NOW THEREFORE**, for and in consideration of the sum of  
One-Million Two-Hundred-Eighty-Seven-Thousand Three-Hundred-Twenty-Eight and 13/100 Dollars  
(\$1,287,328.13 ), the Grantor(s), hereby grants and conveys with general warranty of title  
to the UNITED STATES OF AMERICA and its assigns, (the Grantee), ☒ in perpetuity  
or ☐ for a period of 30 years, all rights, title and interest in the lands comprising the  
easement area described in Part I and appurtenant rights of access to the easement area,  
but reserving to the Landowner only those rights, title, and interest expressly enumerated  
in Part II. It is the intention of the Landowner to convey and relinquish any and all other  
property rights not so reserved. This easement shall constitute a servitude upon the land  
so encumbered; shall run with the land for the duration of the easement; and shall bind

the Landowner, (the Grantor(s)), their heirs, successors, assigns, lessees, and any other person claiming under them.

SUBJECT, however, to all valid rights of record, if any.

PART I. Description of the Easement Area. The lands encumbered by this easement deed, referred to hereafter as the easement area, are described on EXHIBIT A which is appended to and made a part of this easement deed.

TOGETHER with a right of access for ingress and egress to the easement area across adjacent or other properties of the Landowner. Such a right-of-way for access purposes is described in EXHIBIT B which is appended to and made a part of this easement deed.

PART II. Reservations in the Landowner on the Easement Area. Subject to the rights, title, and interest conveyed by this easement deed to the United States, including the restoration, protection, management, maintenance, enhancement, and monitoring of the wetland and other natural values of the easement area, the Landowner reserves:

- A. Title. Record title, along with the Landowner's right to convey, transfer, and otherwise alienate title to these reserved rights.
- B. Quiet Enjoyment. The right of the Landowner to enjoy the rights reserved on the easement area without interference from others.
- C. Control of Access. The right to prevent trespass and control access by the general public subject to the operation of State and Federal law.
- D. Recreational Uses. The right to undeveloped recreational uses, including undeveloped hunting and fishing and leasing of such rights for economic gain, pursuant to applicable State and Federal regulations that may be in effect at the time. Undeveloped recreational uses must be consistent with the long-term protection and enhancement of the wetland and other natural values of the easement area. Undeveloped recreational use may include hunting equipment, such as, tree stands and hunting blinds that are rustic and customary for the locale as determined by NRCS.
- E. Subsurface Resources. The right to oil, gas, minerals, and geothermal resources underlying the easement area, provided that any drilling or mining activities are to be located outside the boundaries of the easement area, unless activities within the boundaries are specified in accordance with the terms and conditions of EXHIBIT C which is appended to and made a part of this easement deed, if applicable.

F. Water uses and water rights. The right to water uses and water rights identified as reserved to the Landowner in EXHIBIT D which is appended to and made a part of this easement deed, if applicable.

G. Grazing. The Landowner reserves the right to graze the easement area in accordance with the terms and conditions of EXHIBIT E, which is appended to and made a part of this easement deed.

PART III. Obligations of the Landowner. The Landowner shall comply with all terms and conditions of this easement, including the following:

- A. Prohibitions. Without otherwise limiting the rights of the United States acquired hereunder, it is expressly understood that the rights to carry out the following activities and uses have been acquired by the United States and, unless authorized by the United States under Part IV, are prohibited on the easement area:
1. haying, mowing, or seed harvesting for any reason;
  2. altering of grassland, woodland, wildlife habitat or other natural features by burning, digging, plowing, disking, cutting or otherwise destroying the vegetative cover, except for grazing carried out in accordance with EXHIBIT E;
  3. dumping refuse, wastes, sewage, or other debris;
  4. harvesting wood products;
  5. draining, dredging, channeling, filling, leveling, pumping, diking, impounding, or related activities, as well as altering or tampering with water control structures or devices, except as specifically set forth in EXHIBIT D, if applicable;
  6. diverting or causing or permitting the diversion of surface or underground water into, within, or out of the easement area by any means, except as specifically set forth in EXHIBIT D, if applicable;
  7. building, placing, or allowing to be placed structures on, under, or over the easement area, except for structures for undeveloped recreational use;
  8. planting or harvesting any crop;
  9. disturbing or interfering with the nesting or brood-rearing activities of wildlife including migratory birds;
  10. use of the easement area for developed recreation. These uses include but are not limited to, camping facilities, recreational vehicle trails and tracks, sporting clay operations, skeet shooting operations, firearm range operations and the infrastructure to raise, stock, and release captive raised waterfowl, game birds and other wildlife for hunting or fishing;
  11. any activities which adversely impact or degrade wildlife cover or other habitat benefits, water quality benefits, or other wetland functions and values of the easement area; and

12. any activities to be carried out on the Landowner's land that is immediately adjacent to, and functionally related to, the land that is subject to the easement if such activities will alter, degrade, or otherwise diminish the functional value of the eligible land.

- B. Noxious Plants and Pests. The Landowner is responsible for noxious weed control and emergency control of pests as required by all Federal, State, and local laws. A plan to control noxious weeds and pests must be approved in writing by the NRCS prior to implementation by the Landowner.
- C. Fences. Except for establishment cost incurred by the United States and replacement cost not due to the Landowner's negligence or malfeasance, all other costs involved in maintenance of fences and similar facilities to manage livestock shall be the responsibility of the Landowner. The installation or use of fences which have the effect of impeding wildlife movement on to, off of, or within the easement area are prohibited on the easement or easement boundary.
- D. Use of water for easement purposes. The landowner shall use water for easement purposes as set forth in EXHIBIT D, which is appended to and made a part of this easement deed, if applicable.
- E. Protection of water uses and water rights. As set forth in EXHIBIT D, if applicable, the Landowner shall undertake actions necessary to protect any water rights and water uses for easement purposes.
- F. Taxes. The Landowner shall pay any and all real property and other taxes and assessments, if any, which may be levied against the land.
- G. Reporting. The Landowner shall report to the NRCS any conditions or events which may adversely affect the wetland, wildlife, and other natural values of the easement area.
- H. Survival. Irrelevant of any violations by the Landowner of the terms of this deed, this easement survives and runs with the land for its duration.

#### PART IV. Compatible Uses by the Landowner.

- A. General. The United States may authorize, in writing and subject to such terms and conditions the NRCS may prescribe at its sole discretion, the use of the easement area for compatible economic uses, including, but not limited to, managed timber harvest, periodic haying, or livestock water development.

- B. Limitations. Compatible use authorizations will only be made if, upon a determination by NRCS in the exercise of its sole discretion and rights, that the proposed use is consistent with the long-term protection and enhancement of the wetland and other natural values of the easement area. The NRCS shall prescribe the amount, method, timing, intensity, and duration of the compatible use.

PART V. Rights of the United States. The rights of the United States include:

- A. Management activities. The United States has the right to enter the easement area to undertake, on a cost-share basis with the Landowner or other entity as determined by the United States, any activities to restore, protect, manage, maintain, enhance, and monitor the wetland and other natural values of the easement area. The United States may apply to or impound additional waters, in accordance with State water law, on the easement area in order to maintain or improve wetland and other natural values.
- B. Access. The United States has a right of reasonable ingress and egress to the easement area over the Landowner's property, whether or not the property is adjacent or appurtenant to the easement area, for the exercise of any of the rights of the United States under this easement deed. The authorized representatives of the United States may utilize vehicles and other reasonable modes of transportation for access purposes. To the extent practical, the United States shall utilize the access identified in EXHIBIT B.
- C. Easement Management. The Secretary of Agriculture, by and through the NRCS, may delegate all or part of the management, monitoring or enforcement responsibilities under this easement to any entity authorized by law that the NRCS determines to have the appropriate authority, expertise and resources necessary to carry out such delegated responsibilities. State or federal agencies may utilize their general statutory authorities in the administration of any delegated management, monitoring or enforcement responsibilities for this easement. The authority to modify or terminate this easement (16 U.S.C. §3837e(b)) is reserved to the Secretary of Agriculture in accordance with applicable law.
- D. Violations and Remedies - Enforcement. The Parties, Successors, and Assigns, agree that the rights, title, interests, and prohibitions created by this easement deed constitute things of value to the United States and this easement deed may be introduced as evidence of same in any enforcement proceeding, administrative, civil or criminal, as the stipulation of the Parties hereto. If there is any failure of the Landowner to comply with any of the provisions of this easement deed, the United States or other delegated authority shall have any legal or equitable remedy provided by law and the right:

1. To enter upon the easement area to perform necessary work for prevention of or remediation of damage to wetland or other natural values; and,
2. To assess all expenses incurred by the United States (including any legal fees or attorney fees) against the Landowner, to be owed immediately to the United States.

PART VI. General Provisions.

- A. Successors in Interest. The rights granted to the United States shall accrue to any of its agents or assigns. All obligations of the Landowner under this easement deed shall also bind the Landowner's heirs, successors, agents, assigns, lessees, and any other person claiming under them. All the Landowners who are parties to this easement deed shall be jointly and severally liable for compliance with its terms.
- B. Rules of Construction and Special Provisions. All rights in the easement area not reserved by the Landowner shall be deemed acquired by the United States. Any ambiguities in this easement deed shall be construed in favor of the United States to effect the wetland and conservation purposes for which this easement deed is being acquired. The property rights of the United States acquired under this easement shall be unaffected by any subsequent amendments or repeal of the Wetlands Reserve Program. If the Landowner receives the consideration for this easement in installments, the Parties agree that the conveyance of this easement shall be totally effective upon the payment of the first installment.
- C. Environmental Warranty. "Environmental Law" or "Environmental Laws" means any and all Federal, State, local or municipal laws, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards or conduct (including common law) concerning air, water, solid waste, hazardous materials or substance, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.  
  
"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound,

mixture, solution or substance which may pose a present or potential hazard to human health or the environment.

Landowner warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Landowner warrants that there are no notices by any government authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Property. Landowner further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substance and wastes are defined by applicable Federal and State law.

- D. General Indemnification. Landowner shall indemnify and hold harmless the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and cost of actions, sanctions asserted by or on behalf of any person or government authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which the United States may be subject or incur relating to the easement area, which may arise from, but is not limited to, Landowner's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in this easement deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

**TO HAVE AND TO HOLD**, this Warranty Easement Deed is granted to the United States of America and its assigns. The Landowner covenants that he, she, or they are vested with good title to the easement area and will warrant and defend the same on behalf of the United States against all claims and demands. The Landowner covenants to comply with the terms and conditions enumerated in this document for the use of the easement area and adjacent lands for access, and to refrain from any activity not specifically allowed or that is inconsistent with the purposes of this easement deed.

Dated this 12<sup>th</sup> day of December, 2014.

Landowner(s): Brenda C. Watkins  
Secretary  
G BAR W LAND AND CATTLE CO.  
an Oregon Corporation

**ACKNOWLEDGMENT**

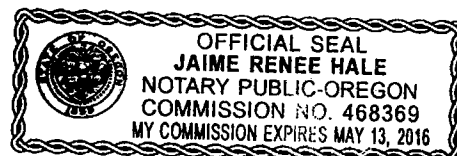
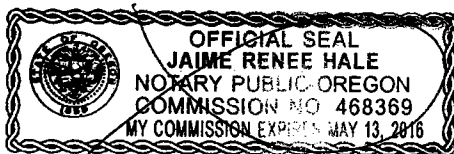
STATE OF Oregon

COUNTY OF Jackson

On this 12<sup>th</sup> day of December, 2014, before me, the undersigned, a Notary Public in and for said State personally appeared Brenda C. Watkins\*, known or proved to me to be the person(s) described in and who executed the foregoing instrument, and acknowledged that her executed the same as her free act and deed.  
\*Secretary of G Bar W Land and Cattle Co.

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

Jaime Renee Hale  
Notary Public for the State of Oregon  
Residing at Oregon  
My Commission Expires 5.13.16





#### ACCEPTANCE BY GRANTEE:

I Ronald Alvarado (name), State Conservationist (title), being the duly authorized representative of the United States Department of Agriculture, Natural Resources Conservation Service, do hereby accept this Conservation Easement Deed with respect to the rights and duties of the United States of America, Grantee.

Dated this 15<sup>th</sup> day of December, 2014.

  
Signature

State Conservationist  
Title

This instrument was drafted by the Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C. 20250-1400.

#### NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its program and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (1202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 705-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

#### PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (U.S.C. 522a). Furnishing this information is voluntary; however, failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other State or Federal Law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.

This information collection is exempted from the Paperwork Reduction Act, as it is required for administration of the Food, Conservation, and Energy Act of 2008 (see Pub. L. 110-246, Title II, Subtitle J – Miscellaneous Conservation Provisions).



April 2, 2013

**Exhibit "A"**

A Wetland Reserve Program Easement being Parcel 2 of "Land Partition 26-10", a portion of Parcel 1 of "Land Partition 26-10" and a portion of Parcel 3 of "Land Partition 25-96", situated in the S1/2 of Section 13, the SE1/4 of Section 14, the E1/2 of Section 23, and Section 24 of T30S, R10EWM, as well as the SW1/4 of Section 18, and the NW1/4 of Section 19 of T30S, R11EWM, Klamath County, Oregon, being more particularly described as follows:

Beginning at the southwest corner of said Section 24; Thence N00°42'33"E 1989.49 feet to the N-S 1/64 corner common to said Sections 23 and 24; Thence N88°53'43"W 1322.56 feet to the C-N-SE 1/64 corner of said Section 23; Thence N00°39'24"E 663.12 feet to the C-E 1/16 corner of said Section 23; Thence N88°53'29"W 661.43 feet to the C-W-E 1/64 corner of said Section 23; Thence N00°38'36"E 1299.60 feet to the C-W-NE 1/64 corner of said Section 23; Thence N89°38'26"W 662.32 feet to the C-N 1/16 corner of said Section 23; Thence N00°36'43"E 1290.60 feet to the 1/4 corner common to said Sections 14 and 23; Thence N00°40'15"E 1369.94 feet to the thread of the Williamson River; Thence, along the thread of the Williamson River, the following courses, S33°02'35"E 59.45 feet, S48°41'14"E 65.09 feet, S31°56'55"E 49.61 feet, S27°05'22"E 52.52 feet, S30°44'46"E 64.77 feet, S36°34'19"E 70.92 feet, S16°30'30"E 34.79 feet, S09°45'06"W 41.83 feet, S40°34'04"W 40.78 feet, S49°08'45"W 58.52 feet, S26°45'16"W 44.09 feet, S19°15'34"E 34.89 feet, S59°51'16"E 26.13 feet, N89°53'02"E 17.58 feet, N72°43'12"E 54.97 feet, S87°59'01"E 27.62 feet, S43°18'30"E 26.16 feet, S16°34'14"E 39.35 feet, S00°23'16"E 48.60 feet, S07°15'06"W 62.34 feet, S03°12'43"E 54.52 feet, S15°43'09"E 61.70 feet, S26°14'48"E 80.94 feet, S18°35'23"E 68.22 feet, S16°09'31"E 58.56 feet, S06°36'38"E 35.88 feet, S26°22'09"E 32.13 feet, S45°35'07"E 28.97 feet, S74°07'43"E 41.70 feet, S88°26'02"E 64.42 feet, S86°28'41"E 34.48 feet, S66°40'30"E 35.45 feet, S36°09'16"E 27.04 feet, S11°15'08"E 35.55 feet, S20°33'41"W 37.22 feet, S32°26'52"W 53.84 feet, S36°44'42"W 48.00 feet, S20°46'02"W 31.51 feet, S05°24'16"W 36.93 feet, S15°58'55"E 24.63 feet, S29°21'15"E 26.58 feet, S44°17'03"E 45.48 feet, S52°50'18"E 34.08 feet, S53°23'24"E 51.69 feet, S49°51'49"E 51.03 feet, S30°53'32"E 32.72 feet, S22°12'13"E 55.03 feet, S19°24'30"E 38.76 feet, S16°04'40"E 34.48 feet, S07°46'57"E 35.55 feet, S40°29'53"E 28.22 feet, S83°04'31"E 20.36 feet, N68°46'51"E 27.89 feet, N55°18'50"E 36.79 feet, N61°48'27"E 26.59 feet, N78°33'36"E 25.51 feet, N84°53'44"E 16.34 feet, S56°56'40"E 20.87 feet, S33°31'33"E 27.04 feet, S14°45'27"E 44.34 feet, S12°53'16"E 48.20 feet, S15°52'46"E 24.02 feet, S18°33'09"E 49.46 feet, S30°06'52"E 31.27 feet, S42°36'14"E 34.95 feet and S46°08'55"E 22.19 feet; Thence, leaving the thread of the Williamson River, N68°40'30"E 1677.84 feet; Thence S88°47'23"E 4000.29 feet; Thence S19°59'56"W 237.57 feet; Thence N87°22'49"W 181.38 feet; Thence S20°51'46"W 177.81 feet; Thence S66°09'29"E 224.78 feet; Thence N62°36'28"E 88.85 feet; Thence S30°52'36"E 291.40 feet; Thence S71°36'10"E 729.88 feet; Thence S76°25'58"E 186.37 feet; Thence S75°15'41"E 421.96 feet; Thence N14°29'11"E 478.82 feet; Thence N16°13'38"E 432.96 feet; Thence N03°08'30"E 382.55 feet; Thence N05°08'42"E 383.81 feet; Thence N05°37'33"E 402.56 feet; Thence N27°56'06"E 96.91 feet; Thence N22°10'36"E 90.86 feet; Thence N10°37'35"E 96.69 feet to a



point on the south line of the 30 foot wide access and public utility easement by said "Land Partition 63-07"; Thence S89°19'45"E, along the said south line, 2218.41 feet to a point on the north-south center section line of said Section 18; Thence S00°48'15"W 1339.13 feet to the 1/4 corner common to said Sections 18 and 19; Thence S00°45'33"W 2661.86 feet to the C 1/4 corner of said Section 19; Thence N87°25'36"W 441.97 feet; Thence N88°05'15"W 441.77 feet; Thence S88°54'24"W 441.60 feet; Thence S89°58'33"W 441.52 feet to a point on the east-west centerline of said Section 19; Thence N89°09'27"W 883.14 feet to the 1/4 corner common to said Sections 19 and 24; Thence N87°42'41"W 444.38 feet; Thence N88°22'12"W 444.20 feet; Thence N88°28'27"W 444.08 feet; Thence N88°30'42"W 444.17 feet; Thence N88°29'56"W 444.17 feet; Thence N88°27'26"W 452.10 feet; Thence S00°29'27"W 451.57 feet; Thence S00°39'24"W 441.59 feet; Thence S00°34'58"W 441.51 feet; Thence S00°36'08"W 441.52 feet; Thence S00°43'41"W 441.53 feet; Thence S00°45'24"W 430.03 feet; Thence N89°15'09"W 440.80 feet; Thence N88°56'55"W 443.91 feet; Thence N89°08'22"W 443.89 feet to a point on the south line of said Section 24; Thence N88°37'15"W 1331.90 feet to the point of beginning.

Excepting Therefrom;

A 16 foot wide road situated in the SW1/4 of Section 18 and the NW1/4 of Section 19, T30S R11EWM, Klamath County, Oregon, being more particularly described as follows:

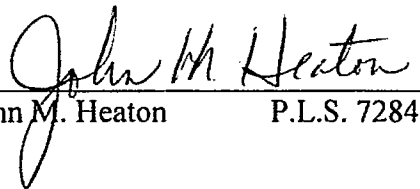
Beginning at a point on the north-south center section line of said Section 19, from which the North 1/4 corner of said Section 19 bears N00°45'33"E 859.41 feet; Thence S00°45'33"W, along the said north-south center section line, 19.10 feet; Thence N56°07'10"W 116.78 feet; Thence N51°55'31"W 113.59 feet; Thence, on the arc of a curve to the left (radius equals 392.00 feet and central angle equals 11°28'50") 78.55 feet; Thence N63°24'21"W 92.22 feet; Thence N60°12'08"W 159.65 feet; Thence N57°46'53"W 231.85 feet; Thence N62°14'43"W 167.92 feet; Thence, on the arc of a curve to the right (radius equals 2508.00 feet and central angle equals 07°29'19") 327.80 feet; Thence N54°45'24"W 100.11 feet; Thence, on the arc a curve to the left (radius equals 992.00 feet and central angle equals 10°21'44") 179.41 feet; Thence N65°07'08"W 44.99 feet; Thence, on the arc of a curve to the left (radius equals 492.00 feet and central angle equals 31°11'22") 267.82 feet; Thence S83°41'30"W 218.67 feet; Thence, on the arc of a curve to the right (radius equals 308.00 feet and central angle equals 21°48'06") 117.20 feet; Thence, on the arc of a curve to the left (radius equals 317.00 feet and central angle equals 29°57'17") 165.73 feet; Thence S75°32'19"W 101.85 feet; Thence S79°37'02"W 150.35 feet; Thence N03°08'30"E 16.46 feet; Thence N79°37'02"E 145.93 feet; Thence N75°32'19"E 101.28 feet; Thence, on the arc of a curve to the right (radius equals 333.00 and central angle equals 29°57'17") 174.10 feet; Thence, on the arc of a curve to the left (radius equals 292.00 feet and central angle equals 21°48'06") 111.11 feet; Thence N83°41'30"E 218.67 feet; Thence, on the arc of a curve to the right (radius equals 508.00 feet and central angle equals 31°11'22") 276.53 feet; Thence S65°07'08"E 44.99 feet; Thence, on the arc of a curve to the right (radius equals 1008.00 feet and central angle equals 10°21'44") 182.30 feet; Thence S54°45'24"E 100.11 feet; Thence, on the arc of a curve to the left (radius equals 2492.00 feet and central angle equals 07°29'19") 325.70 feet; Thence S62°14'43"E



168.54 feet; Thence S57°46'53"E 232.13 feet; Thence S60°12'08"E 158.86 feet; Thence S63°24'21"E 91.77 feet; Thence, on the arc of a curve to the right (radius equals 408.00 feet and central angle equals 11°28'50") 81.75 feet; Thence S51°55'31"E 113.00 feet; Thence S56°07'10"E 105.76 feet to the point of beginning.

This Wetland Reserve Program Easement contains 849.06 acres, more or less, and bearings are based on grid north of the Oregon State Plane Coordinates South Zone #3602.



  
John M. Heaton P.L.S. 72841

Renewal Date: 6/30/13

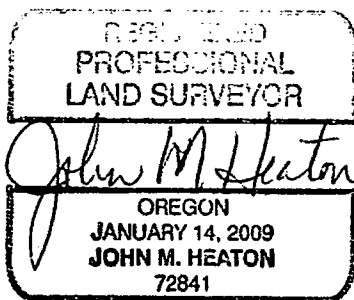


April 2, 2013

**Exhibit "B"**

A 16 foot wide road situated in the SW1/4 of Section 18 and the NW1/4 of Section 19, T30S, R11EWM, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point on the north-south center section line of said Section 19, from which the North 1/4 corner of said Section 19 bears N00°45'33"E 859.41 feet; Thence S00°45'33"W, along the said north-south center section line, 19.10 feet; Thence N56°07'10"W 116.78 feet; Thence N51°55'31"W 113.59 feet; Thence, on the arc of a curve to the left (radius equals 392.00 feet and central angle equals 11°28'50") 78.55 feet; Thence N63°24'21"W 92.22 feet; Thence N60°12'08"W 159.65 feet; Thence N57°46'53"W 231.85 feet; Thence N62°14'43"W 167.92 feet; Thence, on the arc of a curve to the right (radius equals 2508.00 feet and central angle equals 07°29'19") 327.80 feet; Thence N54°45'24"W 100.11 feet; Thence, on the arc a curve to the left (radius equals 992.00 feet and central angle equals 10°21'44") 179.41 feet; Thence N65°07'08"W 44.99 feet; Thence, on the arc of a curve to the left (radius equals 492.00 feet and central angle equals 31°11'22") 267.82 feet; Thence S83°41'30"W 218.67 feet; Thence, on the arc of a curve to the right (radius equals 308.00 feet and central angle equals 21°48'06") 117.20 feet; Thence, on the arc of a curve to the left (radius equals 317.00 feet and central angle equals 29°57'17") 165.73 feet; Thence S75°32'19"W 101.85 feet; Thence S79°37'02"W 150.35 feet; Thence N03°08'30"E 16.46 feet; Thence N79°37'02"E 145.93 feet; Thence N75°32'19"E 101.28 feet; Thence, on the arc of a curve to the right (radius equals 333.00 and central angle equals 29°57'17") 174.10 feet; Thence, on the arc of a curve to the left (radius equals 292.00 feet and central angle equals 21°48'06") 111.11 feet; Thence N83°41'30"E 218.67 feet; Thence, on the arc of a curve to the right (radius equals 508.00 feet and central angle equals 31°11'22") 276.53 feet; Thence S65°07'08"E 44.99 feet; Thence, on the arc of a curve to the right (radius equals 1008.00 feet and central angle equals 10°21'44") 182.30 feet; Thence S54°45'24"E 100.11 feet; Thence, on the arc of a curve to the left (radius equals 2492.00 feet and central angle equals 07°29'19") 325.70 feet; Thence S62°14'43"E 168.54 feet; Thence S57°46'53"E 232.13 feet; Thence S60°12'08"E 158.86 feet; Thence S63°24'21"E 91.77 feet; Thence, on the arc of a curve to the right (radius equals 408.00 feet and central angle equals 11°28'50") 81.75 feet; Thence S51°55'31"E 113.00 feet; Thence S56°07'10"E 105.76 feet to the point of beginning.



*John M. Heaton*  
John M. Heaton P.L.S. 72841

Renewal Date: 6/30/13

Exhibit C  
Subsurface Mineral Restrictions

All drilling or mining in accordance with Section II(E) of the Reserved Rights Pilot Warranty Easement Deed shall be located outside the boundaries of the easement area.

## **EXHIBIT D**

### **G-Bar-W**

## **WATER USES AND WATER RIGHTS**

### **I. Water Uses and Water Rights Reserved to the Grantor ("Landowner")** (Warranty Easement Deed Part II.F.)

- A. Identify with specificity each water use<sup>1</sup> that the NRCS determines the Landowner may continue on, across, or under the easement area without harming the purposes of the easement.

N/A

- B. For each water use described above, identify the water right<sup>2</sup>, or portion of a water right, that is associated with that use. These are the only water rights, or portions of water rights, that the Landowner reserves for continuing agricultural or other uses. All details of each reserved water right, or reserved portion of a water right, must be specified, including the water right number, priority date or date of appropriation, date of permit or adjudication, source, flow, volume, point of diversion, place of use, period of use, means of conveyance and purpose of use.

- C. For each water right identified above, the Landowner retains the right to maintain, repair and reconstruct any existing water facilities associated with the right unless that activity would adversely impact the conservation values of the easement, as determined by NRCS in its sole judgment. The Landowner must obtain approval from the United States prior to commencing any substantial maintenance,

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<sup>1</sup> For purposes of this exhibit, the term "water use" means activities that control water or the use of water instream or in situ. The term includes, but is not limited to: diverting water from its natural source; conveying water in canals, ditches, laterals, flumes, or pipelines; storing water in reservoirs, impoundments, or ponds; pumping or otherwise controlling groundwater; developing springs; and intentionally leaving a quantity of water instream or in situ for a particular purpose.

<sup>2</sup> For purposes of this exhibit, the term "water right" means an instrument, filing, or document that is associated with a particular water use. The term "water right" may include, but is not limited to water permits, water shares or stock certificates, water reservations, water allotments, or water contracts.

repair, or reconstruction of existing facilities. "Substantial maintenance, repair, or reconstruction" means all activities that may adversely affect the purposes of the easement and includes, but is not limited to, the lining of irrigation works and the piping of water.

- D. Any use other than stated above for water rights the Landowner reserves requires the consent of NRCS following its determination that the action will not be inconsistent with the purposes of the easement or the protection of the conservation values. This includes, but is not limited to, changing a water right to any new use (including municipal, industrial or commercial use); selling, leasing, transferring, or encumbering the water right; and changing the point of diversion or type or place use.
- E. The Landowner reserves no other water rights or uses of water on, across, or under the easement area.

**II. Encumbered Water Uses and Water Rights for Easement Purposes**  
(Warranty Easement Deed, Part III.D.)

- A. Describe with specificity water uses that the NRCS determines are necessary to accomplish the purposes of the easement.

Diversion from Irving Creek and Jackson Creek of entire landowner's water right to WRP easement area for wetland restoration and enhancement according to the NRCS approved WRPO. Water will be diverted into the restored channel and will be allowed to spread over WRP easement to mimic overflow into floodplain.

- B. For each water use described in II.A. above, identify any associated existing water right or portion of a water right. These water rights are encumbered by the Warranty Easement Deed<sup>3</sup> for easement purposes, together with any associated rights-of-way, water conveyance and diversion structures, and water use equipment. Specify below details of each encumbered water right, or portion of a water right, including the water right number, priority date or date of appropriation, date of permit or adjudication, source, flow, volume, point of diversion, place of use, period of use, means of conveyance and purpose of use.

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<sup>3</sup> By its terms, the Warranty Easement Deed also encumbers any water right appurtenant to the easement area that, for whatever reason, is not identified in this Exhibit D.



**Water Right Claim No. 12**

**Source:** Irving Creek and Jackson Creek, tributaries of the Williamson River

**Purpose of use:** Irrigation of 153.6 acres (144.2 acres from Irving Creek and 9.4 acres from Jackson Creek; and Livestock watering of 200 head from Irving or Jackson Creek

**Rate of use:** 3.8237 CFS (3.82 CFS for irrigation (3.58 from Irving Creek and .24 from Jackson Creek); and .0037 for livestock watering – not to exceed 2400 gallons day from Jackson and/or Irving Creek.

**Period of use:** Irrigation (April 1 – October 31); Livestock (April 1 – November 1)

**Date of Priority:** Oct 14, 1864

**Points of Diversion:** Irving Creek (10' N and 60' W, SE Corner, NWSW, Sec 19); Jackson Creek (20' S and 300' W from N ¼ corner, Sec 18)

**Place of Use:**

T 30S, R 10 E, WM, Sec 24, NE NE 8 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, NW NE 28 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, SW NE 40 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, SE NE 37.6 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, NE SW 20 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, NW SW 1.2 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, SE SW .6 ac Irving POD  
T 30S, R 10 E, WM, Sec 19, SW NW, Lot 2 8.8 ac Irving POD  
T 30S, R 10 E, WM, Sec 24, NW NE 9.4 ac Jackson POD

**Water Right Certificate 85533, Permit 50262**

**Source:** Williamson River and Irving Creek

**Purpose of Use:** Irrigation of 481.2 acres

**Rate of Use:** 12 CFS (4.2 CFS from Williamson River and 7.8 CFS from Irving Creek)

**Date of Priority:** August 26, 1987

**Points of Diversion:**

610' S and 1550' W from NE Corner, Sec 23 (Williamson River)  
1925' N and 30' E from SW Corner Sec 24 (Williamson River)  
1820' N and 750' E from SW corner Sec 24 (Williamson River)  
695' N and 895' E from SW corner, Sec 24 (Williamson River)  
10' N and 60' W from SE Corner, NW ¼ SW ¼ Sec 19 (Irving Creek)

**Place of Use**

T 30S, R 10 E, WM, Sec 14 NE SW 6.9 ac Williamson River

T 30S, R 10 E, WM, Sec 14 NW SE 16.5 ac Williamson River  
T 30S, R 10 E, WM, Sec 14 SW SE 23.1 ac Williamson River  
T 30S, R 10 E, WM, Sec 14 SE SE .4 ac Williamson River  
T 30S, R 10 E, WM, Sec 23 NE NE 20.3 ac Williamson River  
T 30S, R 10 E, WM, Sec 23 NW NE 7.6 ac Williamson River  
T 30S, R 10 E, WM, Sec 24 NE SW 29 ac Williamson River  
T 30S, R 10 E, WM, Sec 24 NW SW 36.3 ac Williamson River  
T 30S, R 10 E, WM, Sec 24 SW SW 17 ac Williamson River  
T 30S, R 10 E, WM, Sec 24 SE SW 11 ac Williamson River  
T 30S, R 10 E, WM, Sec 24 SE NE 10.2 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 NE NE 11.7 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 NW NE 40 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 SW NE 40 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 SE NE 39 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 NE NW 40 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 NW NW 40 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 SW NW 40 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 SE NW 40 ac Irving Creek  
T 30S, R 10 E, WM, Sec 24 SW NW 12.2 ac Irving Creek

### **III. PROTECTION OF ENCUMBERED WATER RIGHTS**

(Warranty Easement Deed Part III.E.)

The Landowner shall protect the encumbered water uses and rights identified in II.A. and II.B. above by:

- A. Continuing to use the water for easement purposes so as to not abandon or forfeit any water rights by action or inaction.
- B. Providing NRCS with any reports provided by or to state water officials, of water diversions and evidence of use, such as records of dates of impoundment.
- C. Providing NRCS with all notices concerning water rights, including notices of abandonment or forfeiture, from state water officials.
- D. Allowing NRCS to enter property to continue use of the water right to prevent abandonment or forfeiture.
- E. Attempting to administratively prevent abandonment or forfeiture.
- F. Never changing the water right(s) to another use, including sale or transfer of such water right, or conversion to another conservation use.

## **EXHIBIT E – RESERVED RIGHTS PILOT**

The Parties enter this Exhibit E which authorizes the Landowner to reserve grazing rights provided NRCS determines that the reservation of the grazing right is:

- compatible with the land subject to the WRP easement; and
- consistent with the long-term wetland protection and enhancement goals for which the easement is being established.

### **THE SONEC WETLAND ECOSYSTEM**

The Southern Oregon - Northeastern California (SONEC) region is considered an area of continental significance for waterfowl in North America, serving as a major fall and spring staging area during migration (North American Waterfowl Management Plan, 2004). In southern Oregon, this encompasses portions of Klamath, Lake, and Harney Counties (Attachment A). During southward migration, ducks, geese, and other waterbirds rely on the region's wetlands to feed and rest before continuing on to the Central and Imperial Valleys of California and other wintering areas. This pattern is reversed in the spring and many of the same birds pass through the region on their northward migration to the Canadian prairies and Alaska. Historically, extensive flooding occurred in the spring following runoff of snowmelt producing large areas of seasonal wetlands adjacent to waterways. Much of the natural hydrologic cycle has been altered by large dams and waterway diversions for human and agricultural use. Natural flooding has been replaced by human-induced flooding for agricultural production purposes which mimics the natural cycle and continues to provide many of the wetland benefits previously supplied. Flood-irrigated pastures, hay lands, and wet meadows in this region now provide some of the most important non-breeding bird habitat in the Pacific Flyway. Traditional agricultural practices including flood irrigation, haying, and grazing, combined with natural snowmelt runoff, create ideal conditions for migratory waterbirds. In particular, short grasses with shallow ponding, often less than 12 inches in depth, produce an abundance of available seeds and invertebrates for waterbird foraging – attracting large concentrations of migrating waterfowl, wading birds, and shorebirds. Flood-irrigated lands in the SONEC region are critical to the spring migration of 30 percent of the world's population of Northern Pintails, with one quarter of Pintail habitat use occurring on private, agricultural lands (Fleskes and Yee 2007). Pintails are a species that have experienced long-term population declines at the continental level and are a high priority for conservation according to the North American Waterfowl Management Plan (2004). Protecting and maintaining flood-irrigated private lands in the SONEC region is an important strategy to stabilizing or improving waterfowl populations in the Pacific Flyway.

### **DESCRIPTION OF COMPATIBLE EFFECTS OF GRAZING**

The primary purpose of this Reserved Rights Pilot is to enhance and protect non-breeding habitat for migratory waterfowl, shorebirds, and wading birds. In the SONEC landscape, traditional agricultural practices like grazing and flood-irrigation are not only compatible with this purpose but, managed appropriately, can be important tools for

producing the foraging habitat these birds require. Pastures, hay lands, and meadows in this region generally consist of a mixture of native and introduced grasses, forbs, sedges, and rushes that are flood-irrigated by private landowners to produce abundant forage for livestock. Managed grazing can be used to maintain healthy and diverse plant communities while creating the vegetative structure desired by targeted species during critical seasons. For example, short herbaceous vegetation (less than 4 inches tall) produced by grazing combined with shallow flooding (less than 12 inches deep) in the spring can promote abundant and accessible food resources like seeds and invertebrates for migrating ducks, geese, swans, shorebirds, and wading birds. Northern Pintails are one targeted species of this Reserved Rights Pilot that are particularly dependent upon these habitat conditions in the region (Fleskes and Yee 2007). Providing foraging areas during migration is critical for replenishing bird energy reserves and allowing them to arrive on the breeding grounds in good condition. This wetland function would not exist in sufficient quantity to meet the needs of wildlife in this highly altered landscape without active management by agricultural producers.

Grazing management can vary in timing, duration, intensity, and frequency but, in general, short duration, rotational grazing with a high stocking rate during the late summer, fall, or early winter is used to create suitable foraging habitat for migratory waterbirds in the spring (late February to May). Grazing utilization will be managed and monitored closely to ensure the proper amount of residual cover is retained going into the spring. The residual vegetation height will vary depending upon the targeted species on each site but the goal is generally 2-4 inches for foraging habitat. Portions of the easement area may not be grazed every year or may be grazed on a staggered schedule to provide a diversity of vegetative cover types and heights. In general, the amount of grazing permitted on the easement after restoration on an annual basis will not exceed 75 percent of the available Animal Unit Months (AUMs), as determined by NRCS, including a contingency for disaster. Grazing may only exceed the 75 percent annual amount if NRCS determines it necessary to achieve targeted habitat requirements.

Although the primary emphasis of this Reserved Rights Pilot is non-breeding habitat for migratory waterbirds, other species of high conservation concern, such as the Oregon Spotted Frog, Columbia Spotted Frog, and Yellow Rail, may occur on the easement area. Management considerations for other species will be addressed in the grazing management plan. In some instances, the grazing management plan may be adjusted and more careful management of the site may be necessary to maintain or enhance habitat and to avoid detrimental impacts to habitats used by these species.

Streams and other waterways are often part of these wetland complexes. Livestock use in specific sensitive areas, such as riparian areas, where grazing may be detrimental to water quality, aquatic habitat, or other wetland functions and values will be limited. In such cases, grazing may be excluded completely or managed carefully to minimize damage to riparian vegetation and streambanks, any exclusions or grazing uses authorized in these areas will be specifically described in the grazing management plan.

The Parties hereby agree that the grazing of the easement area is a management tool necessary to achieve the desired wetland functions and values. The Landowner agrees to conduct grazing activity in accordance with the terms and conditions identified in this Exhibit and the grazing management plan which is a component of the Wetlands Reserve Plan of Operations (WRPO) developed with NRCS. The WRPO will identify the different wetland, upland, or other associated habitats that are to be restored and maintained on the easement area, and thus guide the grazing management requirements necessary to manage the identified habitats.

To use grazing as a wetland and upland vegetation management tool, the grazing management plan must include the location, timing, intensity, frequency, and duration of grazing necessary to achieve the desired wetland functions and values of the WRP easement area as described herein. For example, NRCS may set a maximum number of AUM's that could be grazed annually and prescribe specific vegetation stubble heights required during specific dates to meet wildlife objectives. In particular, the grazing management plan will:

- a) contain the provisions necessary to further the identified habitat and species goals and objectives described in the WRP easement and this exhibit herein;
- b) be compatible with the identified habitat and species goals and objectives, as described under NRCS practice standard Wetland Wildlife Habitat Management (644) and/or Upland Wildlife Habitat Management (645);
- c) include any livestock watering facilities or fencing, including considerations for wildlife movement;
- d) include a plan depicting grazing units, infrastructure (existing and proposed locations) and livestock watering facilities (existing and proposed), and an effects analysis for the infrastructure;
- e) include criteria to evaluate the effect grazing has on the desired habitat and include the flexibility to make annual adjustments in the location, timing, intensity, frequency, and duration of grazing to account for seasonal climatic factors that result in changes in forage production and subsequent impacts of stocking rates on the desired habitat conditions; and
- f) include periodic monitoring of the effects of grazing on fish and wildlife. NRCS may require changes to the grazing management plan to address appropriate habitat features such as nesting, open water, invasive species control, or other factors that were not adequately addressed in the original grazing management plan but are necessary to achieve the goals and objectives of the WRP easement and this Exhibit.

## **REFERENCES**

Fleskes, J. P., and J. L. Yee. 2007. Waterfowl distribution and abundance during spring migration in southern Oregon and northeastern California. *Western North American Naturalist* 67:409–428.

NAWMP. 2004. North American Waterfowl Management Plan 2004. Implementation Framework: Strengthening the Biological Foundation. Canadian Wildlife Service, U.S. Fish and Wildlife Service, Secretaria de Medio Ambiente y Recursos Naturales, 106 pp.