

2015-010776

Klamath County, Oregon



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09/30/2015 02:40:06 PM

Fee: \$97.00

RECORDING REQUESTED BY:

Green Diamond Resource Company

When Recorded Mail Document:

Cathy Chapel
Green Diamond Resource Company
6400 Highway 66
Klamath Falls, Oregon 97601

APN: R583719

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT OF ROAD EASEMENT

This ROAD EASEMENT AGREEMENT ("Agreement") is made by and between **Green Diamond Resource Company**, a Washington corporation, having a mailing address of 6400 Highway 66, Klamath Falls, Oregon 97601 ("Grantor") and **Kuhler Dobson, LLC**, a California limited liability company, ("Grantee"). Grantor and Grantee collectively are the "Parties".

WITNESSETH

WHEREAS, Grantor is the owner of certain lands and premises situated in the NE¼ SW¼ and the NW¼ SE¼, Section 27, Township 39 South, Range 8 East, W.M. , the County of Klamath, State of Oregon (the "Property"); and

WHEREAS, Grantee is desirous of acquiring certain rights and privileges over, under, above and across specific portions of the Property,

WHEREAS, Grantor is desirous of granting such rights and privileges in accordance with the terms and conditions herewith.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. **GRANT AND AUTHORIZED USE.** Grantor conveys and grants to Grantee, subject to the terms and conditions herein, a non-exclusive easement with a width of thirty (30) feet over the Property at the location more particularly shown as the "permitted crossing" on the "Weyerhaeuser Timber Road" on preliminary plat for Land Partition 37-14, which is Exhibit A to this Agreement (the "Easement Area"). Grantee shall have a right to use the Easement Area for motor vehicle or pedestrian access across the Property for the following "**Authorized Use**":

- a. Management of agricultural activities on the property benefited by the Easement Area.
- b. Hunting on the property benefited by the Easement Area by Grantee and up to two guests per day.
- c. Wetland monitoring by state or federal agencies subject to prior notice to Grantor at least ten (10) days prior to each crossing and use of the Easement Area for that purpose.

Returned at Counter

Use of the Easement Area and use of the property benefited by the Easement Area for residential development is not an Authorized Use.

2. **TYPE OF EASEMENT AND TERM.** This grant of easement is appurtenant to Grantee's property shown as "Parcel" 1 and "Parcel 2" in Exhibit A. The Easement Area shall not be used for the benefit of any property other than the property in Exhibit A. This grant of easement shall benefit only Parcel 1 and Parcel 2 as shown in Exhibit A and may not be further subdivided to benefit additional, smaller parcels of Grantee's property shown in Exhibit A.

3. **COVENANTS AND WARRANTY.**

(a) Grantee covenants and warrants to Grantor that Grantee has the right, power, and authority to enter into this Agreement and bind itself hereto through the signatory for Grantee below.

(b) The privileges granted herein to Grantee are given expressly subject to existing encumbrances, regulatory requirements, and other matters of record affecting the privileges in any manner whatsoever. Grantor does not warrant that it has authority to permit the Authorized Use on behalf of any third party and Grantee shall secure all other permits, privileges or rights required for the Authorized Use. Grantor does not warrant title to the Property and shall not be liable for defects thereto or failure thereof.

(c) Grantor makes no representation as to the present or future conditions of the Easement Area or the character of the traffic on Grantor's roads. Grantor makes no representation as to the present or future conditions of the Easement Area and its fitness for the Authorized Use under this Agreement. Grantee accepts this Agreement subject to all danger or injury to persons and damages or destruction to property while Grantee is on or about the Easement Area. In this regard, Grantee assumes all risk of injury or death to individuals who are on the Easement Area pursuant to this Agreement and all risk of damage to property upon or in proximity to the Easement Area with Grantee's knowledge or consent, without regard to whether such injury or damage is occasioned by known or unknown, hidden or disclosed defects in the Easement Area or by the negligence of Grantor or any person in the employ or service of Grantor.

4. **RESERVATIONS AND NON-INTERFERENCE.** Grantor reserves the right to use the Easement Area including the right to cross and re-cross and construct intersecting roads, and installation of overhead and/or underground utilities, for itself, its agents, employees, contractors, licensees, permittees, successors, and assigns.

5. **MAINTENANCE AND ADDITIONAL CONDITIONS OF USE.**

(a) Grantee agrees to comply with all applicable governmental laws, rules, statutes, regulations, and permits relating to its use of the Easement Area, and to do so at Grantee's cost.

(b) Grantee shall maintain the Easement Area at Grantee's cost through measures including, but not limited to, clearing debris from the Easement Area, clearing ditches, opening culverts, grading the road surfaces smooth, and leaving the Easement Area in a useable condition at all times.

(c) Grantee shall repair any damage to Grantor's road when such damage is caused by Grantee's use of the Easement Area.

(d) Grantee shall obtain prior written permission from Grantor's authorized representative before gating, obstructing, or storing equipment on the Easement Area, and before causing or allowing any dirt, mud or other materials to be placed on or graded over any roads owned by Grantor. Grantee shall at no time be allowed to, or allow others to, dump or deposit any waste, debris, fill, soil, or other material from outside the Easement Area upon any portion of the Easement Area.

6. INDEMNIFICATION.

(a) Grantee shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless Grantor and its agents, contractors, successors, or assigns from and against any and all liability for damages, costs, losses, and expenses resulting from, arising out of or in any way connected with the occupation or use of the Easement Area by Grantee or anyone else entering the Property at Grantee's direction or invitation, or the failure on the part of Grantee to perform fully its promises contained herein. This indemnity obligation shall apply whether such liability is caused by or contributed to by Grantor or any other party indemnified herein, unless caused by the sole active negligence or willful misconduct of Grantor.

(b) In any and all claims against Grantor by any employee of Grantee, any contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, Grantee's indemnification obligation shall not be limited in any way by any limitation on the amount or type of damage, compensation, or benefits payable by or for Grantee or any contractor under any industrial insurance act, workers' compensation act, disability benefit act, or other employee benefit act, and Grantee hereby expressly waives any immunity it may have under such acts to the extent necessary or permitted under the law to assure the validity and enforceability by Grantor of Grantee's aforesaid indemnification obligation.

7. ENVIRONMENTAL. In the event of a spill or release of Hazardous Materials on the Easement Area by Grantee or Grantee's employees or agents, Grantee shall promptly comply with all federal, state and local spill notification and response requirements and shall notify Grantor of the spill event. Grantee shall be responsible for the response and restoration costs of any release of Hazardous Materials in connection with the Agreement, and shall indemnify, defend, and hold harmless Grantor from any liability arising from claims or damages in connection with such release. "Hazardous Materials" shall mean any pollutant, contaminant, chemical or hazardous, toxic, or dangerous waste, substance, chemical or material, or any other substance or material regulated or controlled pursuant to any environmental laws now or at any time hereafter in effect.

8. TAXES. Grantee shall promptly pay or reimburse Grantor for any taxes or tax increases levied as a result of this Agreement or relating to Grantee's use or improvements constructed pursuant to this Agreement.

9. LIENS. Grantee shall keep the Easement Area free from any liens or encumbrances arising out of any work performed by Grantee, materials furnished to Grantee, or obligations

incurred by Grantee. Grantor shall have the right to pay and discharge any lien imposed against the Property due to Grantee's breach of the aforesaid covenant. Grantee shall reimburse Grantor for the amount so paid, including the reasonable expenses of Grantor in connection therewith, within thirty (30) days of receiving notice from Grantor of any such payment with interest thereon at the rate of seven (7) percent per annum from the date of payment thereof by Grantor until the repayment thereof by Grantee. If Grantor exercises the option to make such payments, it shall not be obligatory on Grantor to inquire into the validity of any such lien unless Grantee shall have given notice to Grantor that said lien was being challenged and shall have furnished to Grantor the bond of a surety company or other security satisfactory to Grantor, in an amount satisfactory to Grantor, securing Grantor against the payment of the lien so contested and against any loss, damage, or penalty arising from Grantee's failure to pay it.

10. INSURANCE. Grantee, at its expense, shall procure insurance with companies satisfactory to Grantor covering Grantee against risks with minimum limits as indicated below:

(a) Commercial General Liability insurance of \$1,000,000 combined single limit Bodily Injury and Property Damage each occurrence.

(b) Automobile Liability insurance with minimum limits of \$500,000 per occurrence combined single limit of Bodily Injury and Property Damage coverage. Coverage shall extend to all owned, hired, or non-owned vehicles.

(c) The policy specified in (a) above shall include an endorsement that shall name GREEN DIAMOND RESOURCE COMPANY and its employees, officers, directors, and agents as additional insureds on a primary basis for the duration of this Agreement. The additional insured endorsement must be ISO CG 20 26 11 85 (or other form with like wording). Additional insured status gives the additional insured rights of indemnity under the policies that are independent of the contractual requirement to indemnify.

(d) The policies specified in (a) – (b) above shall provide that Grantor be given a thirty (30)-day written notice prior to cancellation of the policy.

(e) All liability coverage must be on an "occurrence" basis as opposed to "claims made."

(f) Grantee hereby waives any subrogation claim against Grantor by its insurers under the policies specified in subsections (a) and (b) above, for damages arising from any peril insured against under such policies. If necessary, the policies specified in subsections (a) and (b) above shall include an endorsement allowing this waiver of subrogation claims.

(g) All insurance shall be in a form sufficient to protect Grantee and Grantor against the claims of third persons, and to cover claims by Grantor against Grantee for which the Grantee has assumed liability under this Agreement.

(h) Prior to commencement of the use hereunder, and following each permitted transfer, assignment or conveyance of this easement, Grantee or its permitted successors and assigns shall furnish Grantor with certificate(s) of insurance, dated and signed by a stated, authorized agent for the insuring company or companies, and containing a representation that coverage of the types listed above is provided with the required limits. Grantor reserves the right to require a certified

copy of the policies or to examine the actual policies. Said certificates shall be sent to Grantor at the address contained herein.

(i) Grantor may reevaluate the minimum limits required on the foregoing policies and may, not more often than once every five years, adjust those limits to reflect industry standards and risks. Grantor shall provide written notification to Grantee and Grantee shall cause the coverage to be so adjusted and provide proof of adjustment to Grantor within thirty (30) days after such notification.

11. TERMINATION OR ABANDONMENT. All rights of Grantee hereunder shall terminate upon Grantee's use of the Easement Area for any purposes other than the Authorized Use. Termination of this Agreement shall not prejudice Grantor's right to collect damages accrued theretofore or thereafter accruing, on account of Grantee's breach of any term hereof; and any failure to exercise the right to terminate this Agreement in case of default shall not constitute a waiver of Grantee's obligation to perform strictly in accordance with the term hereof. Upon termination the easement conveyed in this Agreement shall revert to and merge with the interests of Grantor, its successors or assigns. Upon such termination, Grantee agrees to execute and deliver such documents as may be required to extinguish of record such easement.

12. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Grantee and a breach of this Agreement:
(1) Grantee does or permits to be done anything that creates a lien upon the Property and the lien is not removed or bonded around within thirty (30) days after written notice thereof from Grantor to Grantee; or (2) Grantee's failure to perform or comply with any other term or condition under this Agreement within thirty (30) days after receipt of written notice from Grantor specifying the failure; provided that no such failure will be deemed to exist if Grantee has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence, and delay in curing a default will be excused if due to causes beyond the reasonable control of Grantee. If Grantee remains in default beyond any applicable cure period, Grantor will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Grantor and a breach of this Agreement: Grantor's failure to perform any term or condition under this Agreement within thirty (30) days after receipt of written notice from Grantee specifying the failure; provided that no such failure will be deemed to exist if Grantor has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence, and delay in curing a default will be excused if due to causes beyond the reasonable control of Grantor. If Grantor remains in default beyond any applicable cure period, Grantee will have the right to exercise any and all rights available to it under law and equity.

13. NOTICES. All notices, requests, demands and communications hereunder will be given by first-class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed as follows:
As to Grantee:

Name: Kuhler Dobson, LLC
Address: 7 Fourth Street #25
Petaluma, CA 94952

Phone: (707) 364-4220
Email: chrisdobson2@mac.com

as to Grantor:

Green Diamond Resource Company
Attn: Cathy Chapel
6400 Highway 66
Klamath Falls, Oregon 97601

Phone: (541) 880-5456
Email: cathy.chapel@greendiamond.com

with a copy to:

Green Diamond Resource Company
Attn: Legal Department
1301 Fifth Avenue, Suite 2700
Seattle WA 98101

Phone: 206-224-5830
Email: gschuler@greendiamond.com

Either Party hereto may change the place for the giving of notice to it by thirty (30) days' prior written notice to the other as provided herein.

14. INTERPRETATION.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to the conflicts of law principles of such state.

(b) A Party's waiver of any right hereunder or of the other Party's breach or failure to perform shall not be deemed a waiver of any other right hereunder or of any other breach or failure by the other Party, whether of a similar nature or otherwise.

(c) If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the Parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either Party on ten (10) days' prior written notice to the other Party hereto.

(d) Terms and conditions of this Agreement which, by their sense and context, survive the termination, cancellation, or expiration of this Agreement, including, but not limited to, Grantee's obligations under Paragraphs 6, 7, 10, and 15, shall so survive.

(e) This Agreement constitutes the entire agreement of the Parties with respect to the matters described herein and supersedes all prior written or oral negotiations or agreements with respect thereto. Each Party acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing signed by both parties, and the amended Agreement remains subject to the enforcement provisions of this Agreement.

(f) This Agreement shall bind and inure to the benefit of the successors, personal representatives, and permitted assignees of the respective Parties.

(g) Each of the Parties hereto has been or has had the opportunity to be represented, to the extent desired, by legal counsel of its choice in respect to this transaction. No provision of this Agreement shall be construed against one party as the drafter of the Agreement for that provision.

(h) Unless otherwise specified, the following rules of construction and interpretation apply: (1) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (2) use of the term "including" will be interpreted to mean "including but not limited to"; (3) exhibits are an integral part of this Agreement and are incorporated by reference into this Agreement; (4) use of the terms "termination" or "expiration" are interchangeable; and (5) reference to a default will take into consideration any applicable notice, grace and cure periods.

15. ENFORCEMENT.

(a) If an action is instituted to enforce any of the terms, covenants, conditions or agreements contained in this Agreement or if an action is commenced because of any breach hereof, then the prevailing party in such action shall be entitled to all of its costs and reasonable attorneys' fees as fixed by the trial and appellate courts in said action.

(b) Grantee and Grantor hereby expressly and irrevocably waive all right to a trial by jury in any action, proceeding, claim, counterclaim or other litigation arising out of or relating to the Agreement or any of the activities or events referenced in this Agreement.

16. EXECUTION.

(a) Unless otherwise provided herein, this Agreement shall be effective on the last date of execution by the undersigned parties. This Agreement shall not be binding upon either Party until signed and acknowledged by each Party.

IN WITNESS WHEREOF, the undersigned has caused this Agreement to be executed as below subscribed.

**Green Diamond Resource Company,
A Washington corporation**

Douglas S. Reed, President

Kuhler Dobson, LLC,
a California limited liability company

Print Name: _____

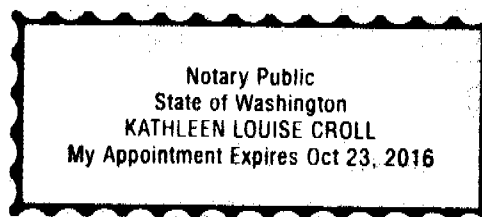
Its:

STATE OF Washington
COUNTY OF King

On Sept. 29, 2015 before me, Kathleen Louise Croll, personally appeared Douglas S. Reed personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature Kathleen Louise Croll



STATE OF _____
COUNTY OF _____

On _____ before me, _____, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the persons), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature _____

EXHIBIT A
EASEMENT AREA AND BENEFITED PROPERTY

EXHIBIT A
EASEMENT AREA AND BENEFITED PROPERTY

PRELIMINARY
LAND PARTITION 37-14

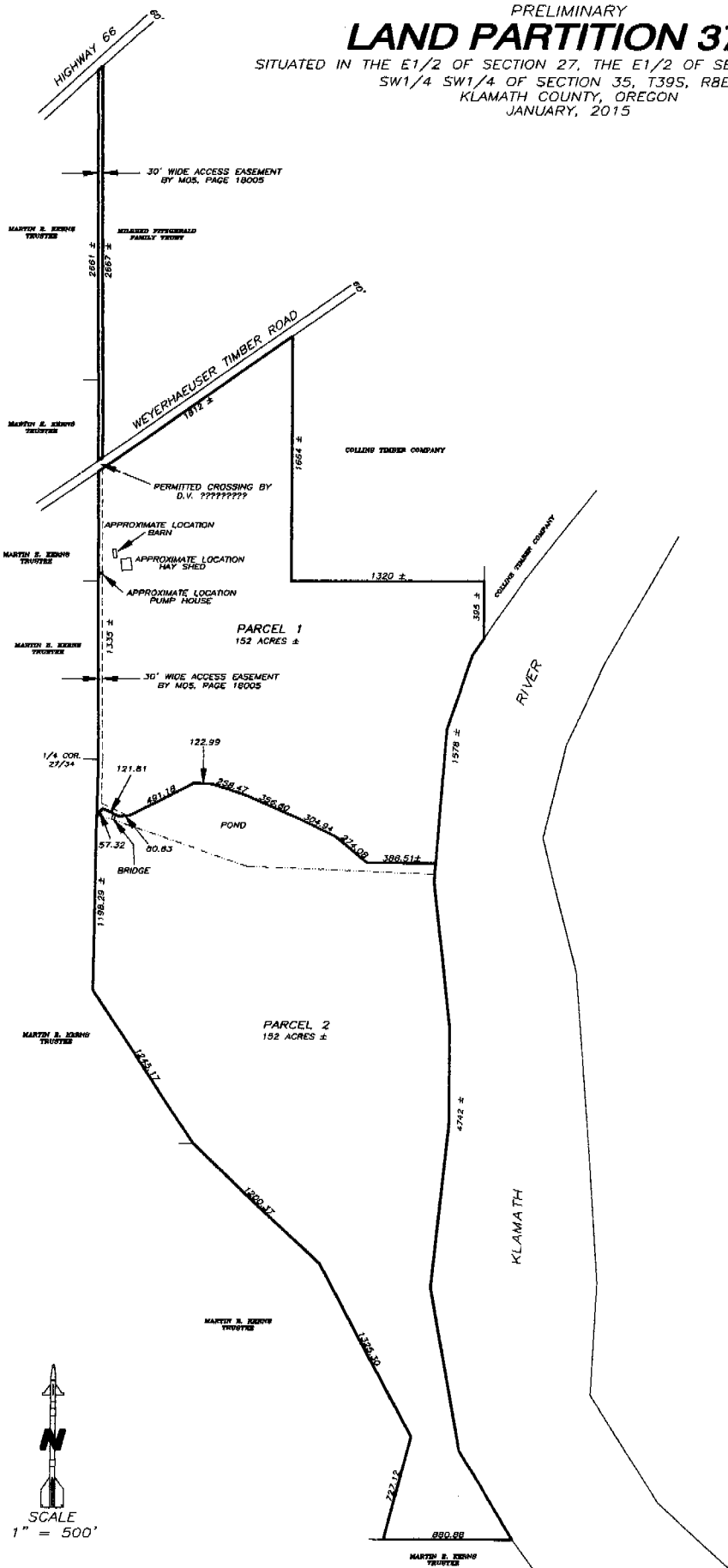
SITUATED IN THE E1/2 OF SECTION 27, THE E1/2 OF SECTION 34, AND THE
SW1/4 SW1/4 OF SECTION 35, T39S, R8EWM,
KLAMATH COUNTY, OREGON
JANUARY, 2015

OWNER:

KUHLER DOBSON, LLC
C/O CHRIS DOBSON
7 FOURTH STREET, STE 25
PETALUMA, CA 94952
PHONE: (707) 364-4220

SURVEYOR AND APPLICANT:

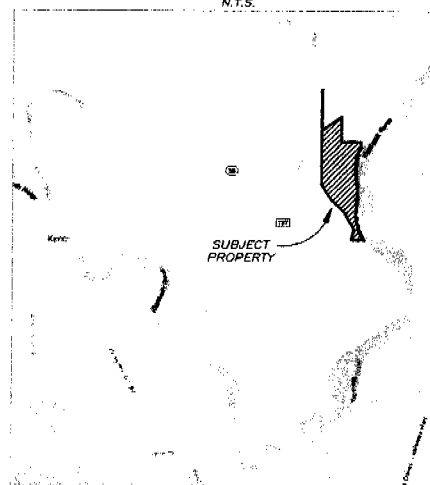
TRU-LINE SURVEYING, INC.
2333 SUMMERS LANE
KLAMATH FALLS, OREGON 97603
PHONE: (541) 884-3691



NOTES:

1. ZONE: EFU-CG
2. EXISTING WATER: A WELL EXISTS ON PARCEL 1
3. PROPOSED WATER: SAME AS EXISTING
4. EXISTING SEWER: SEWER FACILITIES DO NOT EXIST ON THIS PROPERTY
5. PROPOSED SEWER: SEWER FACILITIES ARE NOT BEING PROPOSED BY THIS LAND PARTITION
6. EXISTING USE: PARCEL 1-SEASONAL FARMING / PARCEL 2- UNITED STATES WETLAND RESERVE EASEMENT
7. PROPOSED USE: SAME AS EXISTING

VICINITY MAP
N.T.S.



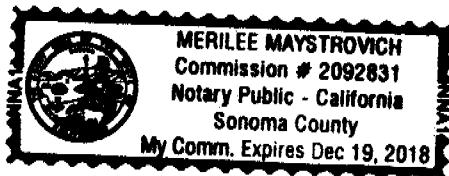
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
 County of Sonoma)
 On September 2, 2015 before me, Merilee Maystrovich, Notary Public
 Date Here Insert Name and Title of the Officer
 personally appeared Christopher M. Dobson
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Merilee Maystrovich
 Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Grant of Road Easement Document Date: _____
 Number of Pages: 11 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Christopher M. Dobson
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☒ Other: Managing Member
 Signer Is Representing: _____

Signer's Name: _____
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator
☐ Other: _____
 Signer Is Representing: _____