

RECEIVED OCT 17 2009

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO

MOORES, WILLIAM H
Plaintiff /Petitioner(s)

Case No. SC-UK-CV-G -09-0054665-000

VS.

**NOTICE OF CASE MANAGEMENT
CONFERENCE**

ENDORSEMENT

SEP 14 2009

IRISH BEACH WATER DISTRICT
Defendant/Respondent(s)

CLERK OF COURT

MEGAN RAMSEY

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD.
Notice is given that a Case Management Conference has been scheduled as follows:

Date: 3/12/10	Time: 2:00 P.M.	Department: E
Location: Ukiah Superior Court 100 North State Street; Ukiah, CA 95482		

The court will make every effort to ensure that this matter is brought to trial or otherwise disposed of within one year. **All parties must comply with the California Rules of Court.** The court will strictly monitor compliance and will impose monetary penalties and may dismiss a complaint or cross-complaint for repeated failures to comply.

1. You must:
 - a. **Serve** all named defendants and file proofs of service on those defendants with the court within 60 days of the filing of the complaint (CRC 3.110(b));
 - b. **Give notice** of this conference to any party not included in this notice and file proof of service;
 - c. **Meet and confer**, in person or by telephone, to consider each of the issues identified in CRC 3.724 no later than **30** calendar days before the date set for the Case Management Conference;
 - d. **File and serve** a completed Case Management Conference Statement (use of Judicial Council Form CM 110 is **mandatory**) at least **15** days before the Case Management Conference (CRC 3.725).
2. You are further ordered to appear in person at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed. Telephonic appearances at Case Management Conference may be available, pursuant to Local Rule 11.1.
3. Each party must file a statement before the trial date indicating whether the party requests the presence of an official court reporter. Proceedings of less than one hour in duration will be reported without cost to any party.

Copy given to Cross-complainant

Benjamin D. Stough
Court Executive Officer

Dated: 9/10/09

Megan Ramsey
By: Megan Ramsey, Deputy Clerk

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

IRISH BEACH WATER DISTRICT, DOES 1 through 10, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

WILLIAM H. MOORES, TONA ELIZABETH MOORES,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
ENDORSED-FILED
SEP 10 2009
CLERK OF SUPERIOR COURT COUNTY OF CALIFORNIA
MEGAN RAMSEY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO
Ukiah Branch

100 North State Street, Ukiah, CA 95482

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Duncan M. James (Bar # 40505)

Fax No.: (707) 468-0453

Law Office of Duncan M. James, 445 North State Street, Ukiah, CA 95482

Phone No.: (707) 468-9271

DATE: SEP 10 2009
(Fecha)

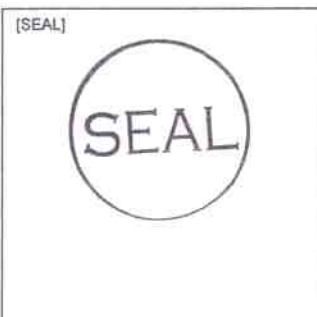
BENJAMIN D. STOUGH Clerk, by MEGAN RAMSEY
(Secretario)

Deputy (Adjunto)

SCUCASE NUMBER: '09 54665

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- 1. as an individual defendant.
- 2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify): Irish Beach Water District

- under: CCP 416.10 (corporation) CCP 416.60 (minor)
- CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
- CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
- other (specify):

4. by personal delivery on (date): 10-17-09

1 LAW OFFICES OF DUNCAN M. JAMES
2 DUNCAN M. JAMES, State Bar No. 40505
3 DAVID M. KINDOPP, State Bar No. 183991
4 DONALD J. McMULLEN, State Bar No. 220840
5 P.O. Box 1381
6 Ukiah, CA 95482
7 Telephone: (707) 468-9271

ENDORSED-FILED

SEP 10 2009

CLERK OF MENDOCINO COUNTY
SUPERIOR COURT OF CALIFORNIA
MEGAN RAMSEY

Attorney for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MENDOCINO

11 WILLIAM H. MOORES, TONA)
12 ELIZABETH MOORES,)
13)
14 Plaintiffs,)
15 v.)
16 IRISH BEACH WATER DISTRICT,)
17 DOES 1 through 10, inclusive,)
18 Defendants.)

Case No. SCUK AVG '09 54665

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF; INVERSE
CONDEMNATION; QUIET TITLE;
BREACH OF SETTLEMENT
AGREEMENT

18 Plaintiffs WILLIAM H. MOORES and TONA ELIZABETH MOORES, hereinafter
19 referred to as "Plaintiffs", allege as follows:

GENERAL ALLEGATIONS

21 1. Plaintiffs are the owners of real property located in Mendocino County,
22 California, as more particularly described in the partnership grant deed recorded on December
23 21, 1976, in Book 1068 of the Official Records of Mendocino County, Page 382, a copy of
24 which is attached hereto and incorporated herein by reference, marked "Exhibit A", commonly
25

1 known as Mendocino County Assessor Parcel Numbers: 131-110-07, 16, 17, 27, 41, 42, and 43;
2 and, 132-210-03, 05, 17, 37, 38, 40, 41 and 48.

3 2. Plaintiff is informed and believes and thereupon alleges that Defendant IRISH
4 BEACH WATER DISTRICT, hereinafter referred to as Defendant, is a California Water
5 District, organized and existing under the laws of the State of California.

6 3. Plaintiff is ignorant of the true names and capacities of defendants sued herein as
7 DOES 1 through 10 inclusive, and therefore sue these defendants by such fictitious names.
8 Plaintiff will amend this complaint to allege their true names and capacities when ascertained.
9 Plaintiff is informed and believe and thereupon alleges that each of the fictitiously named
10 defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiff's
11 damages were proximately caused by such defendants.
12

13 4. Plaintiff is informed and believes and thereupon alleges that at all times herein
14 mentioned each of the defendants sued herein as DOE was the agent and employee of each of the
15 remaining defendants and was at all times acting within the purpose and scope of such agency
16 and employment.

17 5. Plaintiff is informed and believes and thereupon alleges that Defendant is the
18 owner of an easement as more particularly described in a grant deed recorded on July 20, 1988,
19 in Book 1697 of the Official Records of Mendocino County, Page 412, et seq., a copy of which
20 is attached hereto and incorporated herein by reference, marked "Exhibit B". Said easement is
21 described as follows:
22

23 "SODERBERG TANK SITE, WELL, AND PIPELINE EASEMENT

24 A 60' Tank Site and water system appurtenances Easement lying with
25 Section 32, Township 14 North, Range 14 West, M.D.B. & M. and being
26 more particularly described as follows:"

1 Commencing at a 3/4" re-bar tagged LS 3889 and being the Southeast
2 corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino
3 County Records; thence North 4° 43' 28" East along the easterly line of
4 said Parcel 2, 60.00 feet; thence South 88° 49' 21" West, 60.00 feet;
5 thence South 4° 43' 28" West, 60.00 feet to the southerly line of said
6 parcel; thence along said line North 88° 49' 21: [sic] East 60.00 feet to the
7 point of beginning, together with a one-foot wide non-access strip along
8 the easterly boundary of said tank site and a 14' road access and water
9 system appurtenances and 30' diameter well easement lying within
10 Section 32, Township 14 North, Range 14 West, M.D.B. & M and being
11 more particularly described as follows:

12 "Commencing at a 3/4" re-bar tagged LS 3889 and being the Southeast
13 corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino
14 County Records; thence South 88° 49' 21" 60.00 feet; thence North 4° 43'
15 28" West, 30.00 feet to the point of beginning of the easement to be herein
16 described and lying equally left and right of the following line: thence
17 South 86° 19' 31" West, 178.67 feet; thence North 43° 24' 17" West,
18 174.97 feet to an existing well; thence South 47° 46' 12" West 229.70
19 feet, more or less, to an existing road as shown per said parcel map and a
20 30' diameter well easement around the well referred to above, together
21 with all water in said well and the right to extract said water."

22 100' DIAMETER WATER TANK

23 A water tank and water system appurtenances easement as follows:

24 Commencing at a 1" rebar with a bronze tag marked LS3889, per the
25 Parcel Map recorded December 1, 1975, filed in Map Case 2, Drawer 27,
26 Page 31, Mendocino County Records.

Said point of commencement is the South 1/16 corner between Sections
321 and 32, Township 14 North, Range 16 West, Mount Diablo Meridian,
and running thence North 56° 51' 35" West, 58.22, thence South 53° 28"
05' West 388.35 feet, thence South 57° 26" 55' West, 228.31 feet to a
point along the existing road and utility easement. Said point of beginning
of the center line of a 20 foot easement, thence North 11° 21" 37' East,
182.00 feet to a point which is the center of a Water Tank Easement with a
100 foot diameter."

6. On or about July 8, 1988, Plaintiffs and Defendant entered into a "WATER
DEVELOPMENT AGREEMENT BETWEEN WILLIAM MOORES, TONA MOORES,
MOORES ASSOCIATES AND THE IRISH BEACH WATER DISTRICT," hereinafter WDA,

1 recorded on July 19, 1989, in Book 1764 of the Official Records of Mendocino County, Page 92,
2 et seq., a copy of which is attached hereto and incorporated herein by reference, marked "Exhibit
3 C".

4 7. On or about September 7, 1990, Plaintiff's executed a grant deed transferring an
5 easement as more specifically described therein to Defendant, which includes "[all] those
6 improvement facilities for the No. 9 well." Said deed was recorded on December 28, 1990, in
7 Book 1879 of the Official Records of Mendocino County, Page 238, a copy of which is attached
8 hereto and incorporated herein by reference, marked "Exhibit D". Said easement is described as
9 follows:

10 "PARCEL 1:

11 All those improvement facilities for the No. 9 well, located on those
12 easements recorded on July 20, 1988 in Book 1697 of Official Records,
13 Pages 412-415, including, but not limited to, a 10,000 gallon water tank,
14 as shown on Exhibit 4 of the Irish Beach Well Project Plans, now on file
15 in the Mendocino County Public Works Department, and also shown as
16 Exhibit 4 to the July 6, 1988 Water Development Agreement between
17 William Moores, et al and the Irish Beach Water District, recorded July
18 19, 1989 in Book 1764 of Official Records, Page 92.

17 Grantor herein warrants that the above facilities are lien free at the date
18 hereof and that grantor shall, within thirty (30) days, remove any liens
19 imposed hereafter that are attributable to the actions or inactions of
20 grantor."

21 8. Plaintiff is informed and believes and thereupon alleges that Exhibit 4 to the July
22 8, 1988 WDA is identified therein as "SKETCH PLANS FOR NO. 9 WELL
23 APPURTENANCES" (See Book 1764 of the Official Records of Mendocino County, Page 132).
24 A copy of Exhibit 4 to the July 6, 1988 WDA, is attached hereto and incorporated herein by
25 reference, marked "Exhibit E".
26

1 9. On or about March 14, 2002, Plaintiffs and Defendant entered into a "Settlement
2 Agreement and Release of All Claims," in Mendocino County Superior Court case number
3 SCUK-CVG-0063930. A copy of said settlement agreement is attached hereto and incorporated
4 herein by reference, marked "Exhibit F".

5 10. Plaintiff is informed and believes and thereupon alleges that pursuant to the terms
6 of said Settlement Agreement (Exhibit F), part of the "consideration" was described as follows:

- 7 a. Paragraph 2 (page 2): "The parties hereby mutually rescind and
8 forever extinguish all obligations, requirements, covenants and
9 conditions between them that survive in the 1988 WDA. The Parties
10 agree that the effect of this rescission and extinguishment is as if the
11 1998 WDA never existed as to the Parties."
- 12 b. Paragraph 6 (page 3): "The District agrees to provide up to 21 water
13 service obligations to the acreage parcels. Each service obligation
14 shall consist of the equivalent of one customary residential connection
15 of 500 gallons of water per day and shall be billed accordingly.
16 Individual acreage parcels shall be exempt from paying the District
17 assessments or charges until that parcel is connected to the District
18 system. The District agrees that these obligations are not appurtenant
19 to respective acreage parcels and may be assigned or transferred by the
20 plaintiffs. Plaintiffs agree to reimburse the district for the District's
21 actual cost of each connection, including meter, materials and labor.
22 Plaintiffs agree that connection and meters shall be located along the
23 District's existing 3" water main located east of Unit 9. Plaintiffs
24 agree to be responsible for the installation, maintenance and liability of
25 all pipelines servicing acreage parcels from point of connection."
- 26 c. Paragraph 7 (page 3): "[...] The District further agrees that all future
assessments for water source development shall be shared equally
among all parcels, including those with houses, pursuant to the intent
of Proposition 218."
- d. Paragraph 8 (page 3): "The District shall retain all rights to the 1974
Water permit, as modified, for Mallo Pass and any and all easements
conveyed by Plaintiffs to the District at any time."
- e. Paragraph 9 (page 3): "The District shall retain all rights to Well No.
9."

1 11. Plaintiff is informed and believes and thereupon alleges that according to the
2 Settlement Agreement (Exhibit F), Paragraph L (page 5):

3 “Attorneys’ Fees. The prevailing party in any legal action to enforce a
4 provision of this Agreement will be entitled to recover all of its costs and
its reasonable attorneys’ fees from the other party”

5 12. Plaintiff is informed and believes and thereupon alleges that prior to the time of
6 the execution of the Settlement Agreement (Exhibit F), Plaintiff had conveyed to Defendant the
7 easements as more particularly set forth in Exhibits B and D.

8 13. Presently located on the property described in Exhibit A as Mendocino County
9 Assessor Parcel Number 131-110-17 is a water well designated herein and in Exhibit D as the
10 “No. 9 well.”

11 14. Also presently located on the property described in Exhibit A as Mendocino
12 County Assessor Parcel Number 131-110-17, is a second water well which is designated herein
13 as the “new well”.

14 15. Plaintiff is informed and believes and thereupon alleges that at a time uncertain,
15 Defendant contracted with Fisch Bros. Drilling, Inc. to dig the new well.
16

17 16. On or about September 18, 2008, Plaintiff WILLIAM MOORES met with
18 Charles Archer, the manager of the Defendant. At that meeting, Charles Archer informed
19 Plaintiff WILLIAM MOORES that Defendant was setting up to drill a well at the tank site
20 described in Exhibit B which is located on Plaintiff’s land as described in Exhibit A. Plaintiff
21 WILLIAM MOORES informed Charles Archer that he had reviewed the recorded conveyances
22 of rights previously given to Defendant and that it did not appear that the Defendant has been
23 granted an easement to drill a well at the tank site on Plaintiff’s land; and, the only well
24 authorized by existing recorded documents was the single existing well, which is referred to
25

1 herein as the No. 9 well. Plaintiff WILLIAM MOORES told Charles Archer that arrangements
2 should be made with him in advance of any drilling and that Defendant should not proceed.

3 17. Plaintiff is informed and believes and thereupon alleges that on or about
4 September 18, 2008 through September 23, 2008, agents of the Defendants believed by Plaintiff
5 to be Fisch Bros. Drilling, Inc., drilled the new well outside of the designated thirty (30) foot
6 diameter No. 9 well easement at the location of the sixty (60) square foot tank site, as more
7 particularly described in Exhibit B.

8 18. A copy of the State of California, "Well Completion Report", number e0079314,
9 which refers to the new well as the "Tank 5 well", a copy of which is attached hereto and
10 incorporated herein by reference, marked "Exhibit G."

11 19. Attached hereto and incorporated herein by reference, marked "Exhibit H", are
12 five (5) photographs which were taken on the dates handwritten in the margins, being July 4,
13 2009 and August 7, 2009. Said photographs show an area surrounded by a cyclone fence which
14 is the area identified herein as the "tank site". Within the boundaries of the cyclone fence is the
15 location of the new well which is where the white square is visible in the photographs. Said new
16 well is connected by means of a white pipe to a tank which replaced the 10,000 gallon water tank
17 referred to in Exhibit D. Said pipe is partially visible in the Exhibit H photographs dated August
18 7, 2009. The gray pipe as seen in one of the Exhibit H photographs dated July 4, 2009, is for the
19 connection of the electrical pump to the new well so that the new well pump can operate.
20

21 20. Plaintiff is informed and believes and thereupon alleges that the only water well
22 deeded to the Defendant is for the existing No. 9 water well located within the defined thirty
23 (30) foot diameter well easement area as described in Exhibits B and D, as attached hereto, and
24 referred to in Exhibit D as the "No. 9 well."
25
26

1 21. By a letter dated November 19, 2008, a copy of which is attached hereto and
2 incorporated herein by reference, marked "Exhibit I", Plaintiff WILLIAM MOORES advised the
3 Defendant that: the only right currently held by the district is for a single existing well described
4 in the recorded deeds; Defendant was not to use the new well for any purpose, including but not
5 limited to the taking of water; and, that any entry onto the property of Plaintiffs for any purpose
6 other than turning off the well will be considered a trespass.

7 22. Plaintiff is informed and believes and thereupon alleges that on May 27, 2009,
8 Defendant caused a letter to be sent in response to Exhibit I to counsel for Plaintiff, a copy is
9 attached hereto and incorporated herein by reference, marked "Exhibit J." Said letter states in
10 relevant part:
11

12 "The subject easement, titled SODERBERG TANK SITE, WELL, AND
13 PIPELINE EASEMENT,' provides with the ability to extract and store
14 water collected from the easement site. Specifically, the grant provides
15 for a water Tank Site and all supporting *water appurtenances* within the
easement. A clear reading of this language provides an easement to
IBWD to place, construct, and maintain water system appurtenances
within the easement to support the Tank Site." [*Italic's* in original text.]

16 23. Plaintiff is informed and believes and thereupon alleges that Exhibit J goes on to
17 state that Plaintiff is not entitled to compensation as a result of the taking:

18 "IBWD asserts that it has the legal right to construct, maintain, and repair,
19 as necessary, all water system appurtenances within the Soderburg [sic]
20 easement in order to support the Tank Site distribution facility. The well
21 being constructed by IBWD lies entirely within the legal description of the
22 easement and, furthermore, the well casing slab occupies a space
approximately 9 square feet within the existing easement creating no
additional burden upon the Moores' property requiring compensation or
concessions."

23 24. Plaintiff is informed and believes and thereupon alleges that at a time uncertain,
24 Defendants connected: the new well located on the tank site to the tank; and, the new well pump
25 to the electrical panel.
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(1) On July 19, 1989, in Book 1697 of the Official Records of Mendocino County, Page 412-415, as more particularly set forth in Exhibit B; and,

(2) On December 28, 1990, in Book 1879 of the Official Records of Mendocino County, Page 238, as more particularly set forth in Exhibit D.

d. Defendant has previously acquired the right to drill any new well within the boundaries of the tank site, pipeline, and easement, described in Exhibits B and D.

e. Defendant previously acquired right to take any water from the property of the Plaintiffs is limited to the No. 9 well.

f. Drilling a new well on the tank site caused property damage to the property of the Plaintiffs.

g. Drilling a new well on the tank site constitutes an unconstitutional taking of property of the Plaintiff without just compensation.

h. Taking water from the new well constructed on the tank site constitutes an unconstitutional taking of property of the Plaintiff without just compensation.

i. The drilling of the new well on the tank site or the use of the water therefrom is inverse condemnation.

30. A judicial declaration is necessary and appropriate at this time insofar as the Defendants rights to drill the new well outside of the designated thirty (30) foot diameter No. 9 well easement or at the location of the sixty (60) square foot tank site, as more particularly described in Exhibit B, and whether any such drilling constitutes inverse condemnation.

Count II – INVERSE CONDEMNATION

31. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 30.

32. Plaintiff is informed and believes and thereupon alleges an actual controversy has arisen and now exists between Plaintiff and Defendants concerning their respective rights and duties. Plaintiff contends Defendants right to take water from the land of the Plaintiff is limited

1 Forest View County Roads, is attached hereto and incorporated herein by reference, marked
2 "Exhibit K."

3 37. From the end of Alta Mesa County Road is a private unnamed road which is used
4 by Defendant to gain access to the No. 9 well and the tank site since 1988; and, the Unit 8 tank
5 since 1980.

6 38. Although Plaintiff has requested of the Defendant that it contribute its
7 proportionate share to the upkeep and maintenance of the private unnamed road pursuant to
8 California *Civil Code* § 841, at all times herein mentioned, Defendant has refused and continues
9 to refuse to pay its proportionate share.

10 39. Plaintiff is informed and believes and thereupon alleges that an actual controversy
11 has arisen and now exists between Plaintiff and Defendants concerning their respective rights
12 and duties. Plaintiff contends that Defendant has an obligation to pay its proportionate share for
13 the upkeep and maintenance of the unnamed road. Plaintiff is informed and believes and
14 thereupon alleges that Defendant disputes these contentions.

15 40. A judicial declaration is necessary and appropriate at this time insofar as the
16 Defendants obligation to pay its proportionate share for the upkeep and maintenance of the
17 unnamed road.
18

19 Count IV – UTILITY LINE EXTENSIONS

20 41. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 34.

21 42. Plaintiff is informed and believes and thereupon alleges that an actual controversy
22 has arisen and now exists between Plaintiff and Defendants concerning their respective rights
23 and duties. Plaintiff contends that all utility line extensions have to be underground within the
24 road prism and include lines for water, power, and telephone pursuant to permit procedures and
25

1 provisions of the "Covenants, Conditions and Restrictions", paragraph 2(b)(4), and recorded on
2 August 12, 1977, in Book 1104 Official records of Mendocino County, Page 4, et seq. A copy of
3 the relevant page of the Covenants, Conditions and Restrictions is attached hereto and
4 incorporated herein by reference, marked "Exhibit L". Plaintiff is informed and believes and
5 thereupon alleges that Defendant disputes these contentions.

6 43. A judicial declaration is necessary and appropriate at this time insofar as the
7 Defendants obligation to construct all utility line extensions underground within the road prism
8 and include lines for water, power, and telephone.

9
10 Count V – PROVIDING WATER TO PLAINTIFF'S
NON-APPURTENANT PARCELS

11 44. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 26.

12 45. Plaintiff is informed and believes and thereupon alleges that an actual controversy
13 has arisen and now exists between Plaintiff and Defendants concerning their respective rights
14 and duties. Plaintiff contends that pursuant to Exhibit F, paragraph 6, Defendant has an
15 obligation to provide Plaintiff "up to 21 water service obligations to the acreage parcels; that said
16 obligations are not appurtenant to respective acreage parcels; and, they may be assigned or
17 transferred by the Plaintiffs. Plaintiff is informed and believes and thereupon alleges that
18 Defendant disputes these contentions and contends: the twenty-one (21) water service
19 obligations are appurtenant and cannot be assigned to other parcels in the district.

20
21 46. A judicial declaration is necessary and appropriate at this time insofar as: the
22 Defendants obligation to provide Plaintiff up to twenty-one (21) water service obligations to
23 Plaintiff; whether said water service obligations are not appurtenant to respective acreage
24 parcels; and, whether said water service obligations may be assigned or transferred by Plaintiff's
25 without first obtaining the consent of Defendants.
26

Count VI – ASSESSMENTS ON PARCELS
OWNED BY PLAINTIFFS

47. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 26.

48. Plaintiff is informed and believes and thereupon alleges that an actual controversy has arisen and now exists between Plaintiff and Defendants concerning their respective rights and duties. Plaintiffs contend that pursuant to Exhibit F, paragraph 6: “Individual acreage parcels shall be exempt from paying the District assessments or charges until that parcel is connected to the District system.” Plaintiff is informed and believes and thereupon alleges that Defendant disputes these contentions and contends they have the right to charge said assessments prior to the parcel being connected to the system.

49. Plaintiff is informed and believes and thereupon alleges that a further actual controversy has arisen and now exists between Plaintiff and Defendants concerning their respective rights and duties. Plaintiff further contends that pursuant to Exhibit F, paragraph 7, the Defendant agreed “that all future assessments for water source development shall be shared equally among all parcels, including those with houses [...]” Plaintiff is informed and believes and thereupon alleges that Defendant disputes these contentions and contends they have the right to charge buy-in fees.

50. A judicial declaration is necessary and appropriate at this time as to whether the District may impose assessments on a parcel prior to it being connected to the District system; and, whether assessments for water source development shall be shared equally among all parcels, including those with houses.

Count VII –MALLO PASS CAPITAL IMPROVEMENTS ASSESSMENTS

51. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 30.

1 52. In consideration of Defendant developing Mallo Pass Creek as a water source,
2 Plaintiff conveyed a parcel of real property to the District for the Mallo Pass Water Treatment
3 plant site.

4 53. Plaintiff is informed and believes and thereupon alleges that an actual controversy
5 has arisen and now exists between Plaintiff and Defendants concerning their respective rights
6 and duties. Plaintiffs contend that Defendants must immediately cease collecting any funds that
7 were designated as being for the Mallo Pass Creek Capital Improvements; and, that all money
8 previously collected for the development of Mallo Pass Creek as a water source, as more
9 particularly set forth in the "Engineer's Report for District-Wide Capital Improvement
10 Assessment (pursuant to Article XIID of the California Constitution)" dated July 2002, a copy
11 of which is attached hereto and incorporated herein by reference marked Exhibit "M", must be
12 returned to the property owners in the Irish Beach Water District. Plaintiff further contends that
13 since the development of Mallo Pass Creek as a water source has been abandoned, there has been
14 a failure of consideration and the parcel of real property to the District for the Mallo Pass Water
15 Treatment plant site must be reconveyed to Plaintiff. Plaintiff is informed and believes and
16 thereupon alleges that Defendant contends that they may continue to collect assessments for
17 Mallo Pass Capital Improvements and the use of the funds for any alternative water source
18 development project even though the Mallo Pass Creek Project permit has been revoked by the
19 State of California, Water Resources Board; they are under no obligation to refund any
20 assessment expressly identified as being for the Mallo Pass Capital Improvements; and, that
21 there was no failure of consideration so they do not have to reconvey to Plaintiff the parcel of
22 real property to the District for the Mallo Pass Water Treatment plant site.
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1 54. Plaintiff is informed and believes and thereupon alleges that at a date uncertain in
2 2002, the voters of the Defendant Irish Beach Water District approved a ballot initiative which
3 permitted an assessment to be imposed on real property located within the district for the purpose
4 of Mallo Pass Capital Improvements.

5 55. Plaintiff is informed and believes and thereupon alleges an actual controversy has
6 arisen and now exists between Plaintiff and Defendants concerning their respective rights and
7 duties. Plaintiff contends the Defendant has no right to collect any fees or assessments for
8 "Mallo Pass Capital Improvements," as approved by the voters of the Defendant Irish Beach
9 Water District on or about November 5, 2002. Plaintiff is informed and believes and thereupon
10 alleges Defendants dispute these contentions.

11 56. Plaintiff is informed and believes and thereupon alleges that according to Exhibit
12 M, an assessment was deemed to be appropriate (page 4).

13 57. Plaintiff is informed and believes and thereupon alleges that Table 5 (page 8) of
14 Exhibit M shows the detail of the Mallo Pass capital improvement required to develop a new
15 water supply on Mallo Pass Creek.

16 58. Plaintiff is informed and believes and thereupon alleges that Table 8 (page 11) of
17 Exhibit M shows that each parcel will be assessed monthly the sum of \$5.25 for the Mallo Pass
18 Capital Improvements as subsequently adjusted for inflation.

19 59. Plaintiff is informed and believes and thereupon alleges that the "Duration of
20 Assessment" is described in part according to Exhibit M (page 12) as follows::

21 "The Mallo Pass capital improvement component will cease when the
22 Mallo Pass Creek improvements described have been completed or
23 resolved and all financial obligations have been satisfied."
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1 60. Plaintiff is informed and believes and thereupon alleges that according to the
2 minutes of the Defendant Irish Beach Water District Board of Directors meeting of November
3 22, 2008, a copy of which are attached hereto and incorporated herein by reference, marked
4 Exhibit "N":

5 "The Irish Beach Water District approves the abandonment of the Mallo
6 Pass permit 1622 if by December 1, 2008 the accumulative discharge of
7 all three wells currently in operation is 60gpm or more."

8 61. Plaintiff is informed and believes and thereupon alleges that according to the
9 minutes of Defendant Irish Beach Water District Board of Directors meeting of January 10,
10 2009, a copy of which are attached hereto and incorporated herein by reference, marked Exhibit
11 "O":

12 **"Old Business 7C Consideration of abandonment of Mallo Pass
13 Permit.** The board approved the abandonment of Mallo Pass permit."

14 62. Plaintiff is informed and believes and thereupon alleges that on or about March
15 11, 2009, the California State Water Resources Control Board, Division of Water issued an
16 "ORDER OF REVOCATION, PERMIT 16622 (APPLICATION 24364) OF THE IRISH
17 BEACH WATER DISTRICT TO APPROPRIATE WATER FROM MALLO PASS CREEK, IN
18 MENDOCINO COUNTY." A copy of said "Order of Revocation" is attached hereto and
19 incorporated herein by reference, marked Exhibit "P."

20 63. Plaintiff is informed and believes and thereupon alleges that California
21 Constitution, Article XIID has imposed conditions on assessments. Section 6, subdivision
22 (b)(2) of said Article provides in part:

23 "Revenues derived from the fee or charge shall not be used for any purpose
24 other than that for which the fee or charge was imposed."

1 68. Contrary to the terms of the settlement agreement, Plaintiff is informed and
2 believes and thereupon alleges that on or about July 5, 2007, Stephen Whitaker, President, Irish
3 Beach Water District, reported to Meredith Lintott of the Mendocino County District Attorney's
4 Office that Charles Acker, the Operations Manager for the Irish Beach Water District had
5 located an unauthorized attachment to the Irish Beach Water District water system and an
6 alleged theft of water therefrom. A copy of said letter is attached hereto and incorporated herein
7 by reference, marked "Exhibit Q."

8 69. Plaintiff is informed and believes and thereupon alleges that in support of his
9 allegations, on July 5, 2007, Stephen Whitaker, President, Irish Beach Water District, reported
10 to the Mendocino County District Attorney's office that: Charles Acker, Operations
11 Manager for the Irish Beach Water District discovered a direct connection between a District
12 water line located at the southwest corner of Lot 48, Unit 1, APN 132-010-10 and an
13 irrigation system extending approximately 300 yards to the north; according to Irish Beach
14 Water District records, APN 132-010-10 is jointly owned by Mendocino Coast Properties
15 (75%) and William and Tona Moores (25%); and, that neither of the parties had requested
16 that an Irish Beach Water District meter be installed at this location.

17 70. Plaintiff is informed and believes and thereupon alleges that on August 27, 2007,
18 Stephen Whitaker, President, Irish Beach Water District further reported, that the rules and
19 ordinances of the Irish Beach Water District may have been violated in a manner that
20 essentially consists of avoiding (1) a one-time fee of over \$4,000 in order to buy into the
21 District, (2) an availability fee that amounts to \$57 per month, and (3) an assessment fee that
22 amounts to \$194 per year. In addition to violating the rules and ordinances of the Irish
23 Beach Water District, Stephen Whitaker reported that "sections of the State of California
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1 Water Code may have been violated since Mr. Moores has exported water from within the
2 District to a location outside the District service area; and, that “Mr. Moores actions
3 should be considered in light of Jenison v. Redfield (1906) 149 Cal. 500.”

4 71. Plaintiff is informed and believes and thereupon alleges that on or about August
5 27, 2007, Stephen Whitaker, President, of Defendant Irish Beach Water District republished the
6 accusation in a letter to Meredith Lintott, Mendocino County District Attorney. A copy of said
7 letter is attached hereto and incorporated herein by reference, marked “Exhibit R.”

8 72. Plaintiff is informed and believes and thereupon alleges that on August 27, 2007,
9 Stephen Whitaker, President, Irish Beach Water District reported to the Mendocino County
10 Sheriff’s Office that “[in] addition to the matter of theft that I described in my letter of July 5,
11 2007 [...], the rules and ordinances of the Irish Beach Water District have recently been violated
12 by William M. Moores in a manner that essentially consists of robbing the District of (1) a
13 one-time fee of about \$4,000 in order to buy into the District, (2) an availability fee that amounts
14 to \$57 per month, and (3) an assessment fee that amounts to \$194 per year.

15 73. Plaintiff is informed and believes and thereupon alleges that an actual controversy
16 has arisen and now exists between Plaintiff and Defendant concerning their respective rights and
17 duties. Plaintiff contends that the actions of Stephen Whitaker and Charles Acker were an
18 attempt by officers, directors and agents of Defendant to circumvent the negotiated terms and
19 conditions as more particularly set forth in the Settlement Agreement attached hereto as Exhibit
20 F, by using the power and authority of the Mendocino County District Attorneys’ Office to gain
21 an unfair advantage and modify the terms of Exhibit F as previously agreed to by Plaintiff and
22 Defendants and that said actions resulted in a breach of the Settlement Agreement. Plaintiff is
23 informed and believes and thereupon alleges Defendant disputes these contentions.
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Count IX - TRESPASS

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2 74. Plaintiff realleges and incorporates herein by reference paragraphs 1 through 26.

3 75. Plaintiff is informed and believes and thereupon alleges that an actual controversy
4 has arisen and now exists between Plaintiff and Defendant concerning their respective rights and
5 duties. Plaintiff contends that except as provided in the easements provided in Exhibits B and D
6 and pursuant to their power to condemn, Defendant has no right to enter onto Plaintiffs land for
7 the purpose of drilling a new well without the express approval of Plaintiff. Plaintiff is informed
8 and believes and thereupon alleges Defendant disputes these contentions and contends that a
9 clear reading of the language of their easements permit it to place, construct, and maintain water
10 system appurtenances within the easement to support the Tank Site, which includes the drilling
11 of a new well on the tank site.
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13 76. A judicial declaration is necessary and appropriate at this time as to whether
14 Defendants had the right to enter onto the land of the Plaintiff pursuant to their easement to drill
15 a new well on the tank site without Plaintiffs consent.

16 SECOND CAUSE OF ACTION
17 (INJUNCTIVE RELIEF)

18 77. Plaintiff realleges and incorporates herein by reference, paragraphs 1 through 62.

19 78. Plaintiff is informed and believes and thereupon alleges Defendants and their
20 directors, officers, and agents intend to overburden the easements granted to Defendant in
21 Exhibits B and D and to interfere with Plaintiff's peaceful use and enjoyment of their real
22 property described in Exhibit A.

23 79. Plaintiff is informed and believes and thereupon alleges that, as a result of the acts
24 of Defendants, Plaintiff will sustain great and irreparable injury to Plaintiff's property rights.
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1 93. On or about March 14, 2002, Plaintiff and Defendants entered into the
2 hereinbefore referred to Settlement Agreement, a copy of which is attached hereto as Exhibit F.

3 94. Contrary to the terms of the settlement agreement, Plaintiff is informed and
4 believes and thereupon alleges that on or about July 5, 2007, Stephen Whitaker, President, Irish
5 Beach Water District, reported to Meredith Lintott of the Mendocino County District Attorney's
6 Office that Charles Acker, the Operations Manager for the Irish Beach Water District had
7 located an unauthorized attachment to the Irish Beach Water District water system and an
8 alleged theft of water therefrom. A copy of said letter is attached hereto and incorporated herein
9 by reference, marked "Exhibit Q."

10 95. Plaintiff is informed and believes and thereupon alleges that in support of his
11 allegations, on July 5, 2007, Stephen Whitaker on behalf of the Irish Beach Water District,
12 reported to the Mendocino County District Attorney's office that: Charles Acker,
13 Operations Manager, discovered a direct connection between a District water line located at
14 the southwest corner of Lot 48, Unit 1, APN 132-010-10 and an irrigation system extending
15 approximately 300 yards to the north; according to Irish Beach Water District records, APN
16 132-010-10 is jointly owned by Mendocino Coast Properties (75%) and William and Tona
17 Moores (25%); and, that neither of the parties had requested that an Irish Beach Water
18 District meter be installed at this location.

19 96. Plaintiff is informed and believes and thereupon alleges that on August 27, 2007,
20 Stephen Whitaker further reported, that the rules and ordinances of the Irish Beach Water
21 District may have been violated in a manner that essentially consists of avoiding (1) a one-
22 time fee of over \$4,000 in order to buy into the District, (2) an availability fee that amounts
23 to \$57 per month, and (3) an assessment fee that amounts to \$194 per year. In addition to
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1 violating the rules and ordinances of the Irish Beach Water District, Stephen Whitaker
2 reported that “sections of the State of California Water Code may have been violated since
3 Mr. Moores has exported water from within the District to a location outside the District
4 service area; and, that “Mr. Moores actions should be considered in light of Jenison v.
5 Redfield (1906) 149 Cal. 500.”

6 97. Plaintiff is informed and believes and thereupon alleges that on or about August
7 27, 2007, Stephen Whitaker, President, Irish Beach Water District republished the accusation in
8 a letter to Meredith Lintott, Mendocino County District Attorney. A copy of said letter is
9 attached hereto and incorporated herein by reference, marked “Exhibit R.”

10 98. Plaintiff is informed and believes and thereupon alleges that on August 27, 2007,
11 Stephen Whitaker, President, Irish Beach Water District reported to the Mendocino County
12 Sheriff’s Office that “[in] addition to the matter of theft that I described in my letter of July 5,
13 2007 [...], the rules and ordinances of the Irish Beach Water District have recently been violated
14 by William M. Moores in a manner that essentially consists of robbing the District of (1) a
15 one-time fee of about \$4,000 in order to buy into the District, (2) an availability fee that amounts
16 to \$57 per month, and (3) an assessment fee that amounts to \$194 per year.

17 99. Plaintiff is informed and believes and thereupon alleges that the actions of
18 Stephen Whitaker and Charles Acker resulted in felony criminal charges being filed against the
19 Plaintiff for the theft of water that Plaintiff is informed and believes and thereupon alleges that
20 he was entitled to under the terms of Exhibit F.

21 100. Plaintiff is informed and believes and thereupon alleges that the actions of
22 Stephen Whitaker and Charles Acker were an attempt by officers, directors and agents of
23 Defendant to circumvent the negotiated terms and conditions as more particularly set forth in the
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1 Settlement Agreement attached hereto as Exhibit F, by using the power and authority of the
2 Mendocino County District Attorneys' Office to gain an unfair advantage and modify the terms
3 of Exhibit F as previously agreed to by Plaintiff and Defendants.

4 101. Plaintiff is informed and believes and thereupon alleges that the actions of
5 Stephen Whitaker and Charles Acker as officers, directors and agents of Defendant were an
6 attempt by the Defendant to circumvent the terms of Exhibit F thereby resulting in a breach and
7 entitling Plaintiff a right to recover damages in an amount subject to proof.

8 102. As a result of the actions of Stephen Whitaker and Charles Acker as officers,
9 directors or agents of Defendant, as here above alleged, Plaintiff was required to hire an attorney
10 to enforce the terms of Exhibit F and protect his rights thereunder.

11 103. Plaintiff is informed and believes and thereupon alleges that the District breached
12 Exhibit F by the following actions:

- 13 a. Changing its' plan to obtain added water Mallo Pass Creek and instead
14 entered Moores land to develop a well and take water needed;
- 15 b. Refusing to allow Moores to assign two (2) of the service obligations to
16 AP 132-320-43 and 44, contending that the service obligations are
17 appurtenant only to forest acreage parcels;
- 18 c. Trying to IMPOSE new conditions on its obligation to provide service to
19 the Inn Site (AP 131-110-04 and 36) by requiring payment of a \$4,000
20 "Buy-In" fee and a \$194/yr fee as a precondition to providing service.
- 21 d. Trying to impose a "buy in" fee on two new re-subdivision lots to which
22 Plaintiff sought to assign two (2) of the twenty-one (21) service
23 obligations
- 24 e. Attempting to impose a "buy-in" fee as additional consideration and
25 conditions for providing the service is a breach of the Defendants' promise
26 to assess all lots equally for water source development.

104. Plaintiff is informed and believes and thereupon alleges that Exhibit F, paragraph

L (page 5):

1 “Attorneys’ Fees. The prevailing party in any legal action to enforce a
2 provision of this Agreement will be entitled to recover all of its costs and
 its reasonable attorneys’ fees from the other party.”

3 105. As a result of the actions of the Defendants entering onto the property of the
4 Plaintiff for the express purpose of drilling a new well and the drilling of a new well, Plaintiff
5 has been damaged in an amount subject to proof.

6 WHEREFORE, Plaintiff’s requests judgment as follows:

7 1. As to the First Cause of Action (Declaratory Relief), a declaration as to each of
8 the Counts as follows:

9 a. Count I - New Well.

10 (1) The drilling of a new well within the boundaries of the tank site,
11 pipeline, easement, as described in Exhibits B and D does not fall
12 within the definition of “supporting *water appurtenances* within
 the easement.”

13 (2) Irish Beach Water District has no legal right pursuant to Exhibits B
14 and D, to construct, maintain, and repair, a new well in the tank
 easement

15 (3) Defendant has no right to use the property of the Plaintiffs
16 other than as may be expressly permitted by the documents
17 recorded:

18 (a) On July 19, 1989, in Book 1764 of the Official Records
19 of Mendocino County, Page 92; and,

20 (b) On December 28, 1990, in Book 1879 of the Official
 Records of Mendocino County, Page 238.

21 (4) Defendant has no right to take any water from the property
22 of the Plaintiffs other than as described in paragraphs
 Exhibits B and D.

23 (5) The drilling of a new well on the tank site caused property
24 damage to the property of the Plaintiffs.

25 (6) The drilling of the new well on the tank site constitutes a
26 taking of the real property of the Plaintiff’s.

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- (7) The use of the water from the new well constructed on the tank site constitutes a taking of the real property of the Plaintiff's.
- (8) The drilling of the new well on the tank site constitutes an undue burden on the land of the Plaintiff's.
- (9) The drilling of the new well on the tank site or the use of the water therefrom is an unconstitutional taking of real property without just compensation.
- (10) The drilling of the new well on the tank site or the use of the water therefrom is inverse condemnation.
- (11) Access easements to the No. 9 well and the tank 5 site are limited in their use only to access those facilities and cannot be used by the District to provide access to lands of adjoining owners or to access other facilities without a subsequent additional grant from Plaintiff or the payment of just compensation.

- b. Count II - Inverse Condemnation: Defendants right to enter onto the sixty (60) square foot tank site described in Exhibit B for the purpose of and the drilling of a new well and the taking of water therefrom constitutes inverse condemnation.
- c. Count III – Road Maintenance Agreement. Defendant contribute its proportionate share to the upkeep and maintenance of the private unnamed road pursuant to California *Civil Code* § 841, including but not limited to:
 - (1) Removing at least every three (3) years all brush and tree seedlings growing taking root in the roadway drainage ditches, on the road shoulders and on the roadbed;
 - (2) Trimming and cutting every three (3) years tree branches that grow into the travel way from either side of the road up to a height of 10 ft. above the roadway;
 - (3) Annually cleaning out all drainage ditches on either side of the road before the end of November including cleaning out all inlets to each culvert crossing the roadway;
 - (4) Filling in road gravel washouts or surface rock channeling that occurs during each winters' rain before the end of April, usually by hand raking surface rock back into washout areas. The roadbed

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must be maintained in a non-rutted, smooth travel way condition, particularly near the Unit #8 water tank site;

- (5) Prior to November 30th of each year creating winterization gravel water bars across the roadway where necessary to prevent accumulated roadway surface runoff from running down the road instead of into the drainage ditches;
- (6) Maintaining at least four (4) inches depth of surface gravel cover over the road travel way by hauling in gravel where needed and when needed or by grader work as needed; and,
- (7) Inspecting all of the culvert inlets and drainage channels within eight (8) hours of any individual storm that entails two (2) inches of rain or more to insure that water has not jumped a ditch or bypassed a culvert inlet, particularly the one mile of roadway above Hillcrest Drive at Unit #8 which is located above and below the Unit #8 water tank and the new well on Gordon Moores land

d. Count IV – Utility Line Extensions.

- (1) All utility line extensions be constructed underground and within the road prism and that said utility lines include lines for water, power, and telephone.
- (2) Defendant be required to comply with all permit procedures and provisions of the “Covenants, Conditions and Restrictions”, paragraph 2(b)(4), and recorded on August 12, 1977, in Book 1104 Official records of Mendocino County, Page 4, et seq. by obtaining permits for all utility line extensions and surface improvements.

e. Count V - Providing Water to Plaintiff’s Non-appurtenant Parcels:

- (1) Defendant is obligated to provide Plaintiff up to twenty-one (21) water service obligations to the acreage parcels;
- (2) Said water service obligations are not appurtenant to respective acreage parcels; and,
- (3) Said water service obligations may be assigned or transferred by Plaintiff’s without first obtaining the consent of Defendants.

f. Count VI - Assessments on All Parcels Owned by Plaintiffs:

- (1) District may not impose assessments on a parcel prior to it being connected to the District system;

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- (2) Assessments for water source development shall be shared equally among all parcels, including those with houses;
- (3) Defendants have no right to collect unequal assessments for Mallo Pass Capital Improvements;
- (4) Moores Parcels that cannot be assessed more fees are those for which the District has promised service under paragraphs 4 and 6 of the 2002 contract include but are not limited to Assessor Parcel numbers 131-110-04 & 36 (the Inn Site) and 131-110-07, 16, 17, 27, 41, 42, 43; and 132-210-17, 37, 38, 39, 40, 41 and 48, in addition to any parcel to which one of the twenty-one (21) service obligations is assigned in the future; and,
- (5) The District may not impose improvement assessments on the above described parcels as a condition of connection to the District system or providing service since the District already promised service in exchange for Moores deeding the #9 well and Mallo Pass permit to the District.

g. Count VII - Mallo Pass Capital Improvements Assessments:

- (1) Defendants must immediately cease collecting any funds that were designated as being for the Mallo Pass Creek Project;
- (2) Any funds collected for the Mallo Pass Capital Improvements that were not specifically used for said project must be immediately returned to the Irish Beach Water District property owners.
- (3) Defendants have no right to continue to collect any assessments for the Mallo Pass Capital Improvements;
- (4) Defendants have no right to collect unequal assessments for Mallo Pass Capital Improvements.
- (5) Defendant execute a deed reconveying the Mallo Pass Treatment plant site to Plaintiff since the Mallo Pass Project has been terminated by the District

h. Count VIII - Breach of Settlement Agreement

i. Count IX - Trespass: Irish Beach Water District officers, directors and agents, trespassed when they entered onto the land of the Plaintiff to drill a new well on the tank site without the express consent of Plaintiff.

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2 2. As to the Second Cause of Action (Injunctive Relief), a preliminary and
3 permanent injunction enjoining and restraining Defendants, their agents, employees, and
4 representatives, and each of them, from trespassing and otherwise burdening Plaintiffs land
5 except as expressly permitted by their recorded easements; and, such other and further relief as
6 may be just and equitable.

- 7 a. No more collection of Mallo Pass Project or refusing to refund fees
8 previously collected;
- 9 b. No using Mallo Pass funds collected for any other projects including
10 obtaining consultant advice about abandoning Mallo Pass or using the
11 funds for other purposes;
- 12 c. District can't use access easement to No.9 well or tank site for any other
13 purpose that to access said facilities;
- 14 d. District can't extend any utility lines without complying with Conditions,
15 covenants and Restrictions including obtaining a permit approval from the
16 applicable committee;
- 17 e. District can't refuse to allow assignment anywhere with the District any of
18 twenty-one (21) connections;
- 19 f. District can't refuse to pay California *Civil Code* 841 share of road
20 maintenance expenses for defined maintenance work incurred by land
21 owners;
- 22 g. District can't impose "buy-in" fees on Plaintiffs parcels described in or
23 breach the Settlement Agreement with respect to all future water source
24 development costs.

25 3. As to the Third Cause of Action (Inverse Condemnation)

- 26 a. An order that the defendants inversely condemned the property of the
27 Plaintiff's effective September 18, 2008; and,
28 b. Damages for said inverse condemnation in an amount subject to proof:

29 4. As to the Fourth Cause of Action (Quiet Title)

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- a. That the court quiet title as against these Defendants and all others similarly situated;
- b. That the Defendant has no right title and interest in the land of the Plaintiff except as expressly set forth in Exhibits B and D; and,
- c. That drilling a new well is not an *appurtenance* to the improvement facilities for the No. 9 well but is an unreasonable burden on the recorded easements granted to Defendant's and is an invasion of the Plaintiff's property rights

- 5. As to all causes of action, damages in an amount subject to proof;
- 6. As to all causes of action, reasonable attorney fees;
- 7. As to all causes of action, that the court effects such an adjustment of the rights, equities and interests of the parties as is consistent with substantial justice to the parties under the circumstances of this case.

- 8. As to all causes of action, costs of suit herein incurred and for such other and further relief as the court may deem just and proper.

Dated: September 9, 2009

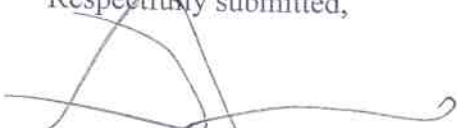
Respectfully submitted,

DUNCAN M. JAMES
Attorney for Plaintiff

EXHIBIT "A"

131-110-06, 14, 07, 13, 16, 17 ✓ 36923
-18, 19, 411, 08

RECORDING REQUESTED BY
132-210-03, 01, 02, 05 ✓
AND WHEN RECORDED MAIL TO
NAME [grantee
Address Star Route
CITY & STATE Irish Beach
Manchester, Calif

RECORDED AT REQUEST OF
WESTERN TITLE INSURANCE COMPANY
BOOK 1068 PAGE 382
Dec 21 1 51 PM '76
OFFICIAL RECORDS
MENDOCINO COUNTY, CALIF.
Richardson
RECORDER \$7.00

INDEXED CHECKED

Title Order No. 69941 Escrow No.

MAIL TAX STATEMENTS TO
NAME [grantee same as above
Address
CITY & STATE

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Documentary transfer tax \$ None
 Computed on full value of property conveyed, or
 Computed on full value less liens and encumbrances
remaining thereon at time of sale.
D. Williams
WESTERN TITLE INSURANCE COMPANY
Signature of declarant or agent determining tax—firm name

Partnership Grant Deed

WESTERN TITLE FORM NO. 102

FOR VALUE RECEIVED, MOORES ASSOCIATES, a partnership
GRANTS to WILLIAM M. MOORES and TONA ELIZABETH MOORES, husband and
wife as community property
all that real property situate in the
County of Mendocino State of California, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Date December 20 1976
by Tona E. Moore Tona E. Moore wife of Partner
by Sandra L. Moore Sandra L. Moore wife of Partner

MOORES ASSOCIATES
by William M. Moore William M. Moore Partner
by Gordon M. Moore Gordon M. Moore Partner

STATE OF CALIFORNIA
County of Mendocino
On Dec 20 1976, before me, the undersigned,
a Notary Public, in and for said State, personally appeared
William M. Moore & Gordon M. Moore
known to me to be two of the partners of the partnership that
executed the within instrument, and acknowledged to me that such
partnership executed the same.

D. Williams
Notary Public



STATE OF CALIFORNIA
COUNTY OF Mendocino



On this 20th day of December in the year one thousand nine hundred and 76 before me, the undersigned a Notary Public, State of California, duly commissioned and sworn, personally appeared Tona E. Moores & Sandra L. Moores

known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the County of Mendocino the day and year in this certificate first above written.

Georgine Williams
Notary Public, State of California

My commission expires

EXHIBIT "A"

ct That certain real property situated in the County of Mendocino, State of California, described as follows:

PARCEL ONE:

The Southwest quarter of Northwest quarter of Section 32, the East half of the Southeast quarter of the Northeast quarter and the East half of the East half of the Southeast quarter of Section 31; Township 14 North, Range 16 West, Mount Diablo Base and Meridian.

PARCEL TWO:

The Southwest quarter of the Northeast quarter, and the West half of the Southeast quarter of the Northeast quarter, and the West half of the East half of the Southeast quarter of Section 31, Township 14 North, Range 16 West, Mount Diablo Base and Meridian.

PARCEL THREE:

co The Southwest quarter of the Southeast quarter, the East 1585.15 feet of the South half of the Southwest quarter, all that portion of the North half of the Southwest quarter described as follows: COMMENCING at a 1/2 inch iron pipe tagged IS 3089 located at the Northeasterly corner of Lot 31, Mendocino Coast Subdivision Unit #3, recorded in Map Case 2, Drawer 8, page 29, Mendocino County Records; thence South 89° 15' 20" East 129.39 feet to the true point of beginning; thence North 44° 58' 38" East 316.76 feet; thence along the arc of a tangent curve to the right, having a radius of 155 feet, through a central angle of 115° 26' 49", a length of 312.31 feet; thence South 19° 34' 33" East 110.31 feet; thence South 16° 36' 25" East 72.52 feet to a point on the South line of the Northeast quarter of the Southwest quarter of said Section 31; thence North 89° 15' 20" West along said line 537.31 feet to the true point of beginning. The bearings used in this description are based upon the California State Coordinate System, Zone II. All being within Section 31, Township 14 North, Range 16 West, Mount Diablo Base and Meridian, and all that portion of the North 1303.26 feet of Lot 2 in Section 6, Township 13 North, Range 16 West, Mount Diablo Base and Meridian, lying Northwesterly of the following described line: BEGINNING at the Northeast corner of said Lot 2, and running thence Southwesterly in a straight line to the Southwest corner of the above described North 1303.26 feet of said Lot 2.

PARCEL FOUR:

Lot 4 and the Southerly half of Lot 3 in Section 5; and Lot 1 and all that portion of the North 1303.26 feet of Lot 2 in Section 6, lying Southeasterly of the following described line: BEGINNING at the Northeast corner of said Lot 2 and running thence Southwesterly in a straight line to the Southwest corner of the above described North 1303.26 feet of said Lot 2, and all being within Township 13 North, Range 16 West, Mount Diablo Base and Meridian.

Continued.....

EXHIBIT "A"
PAGE 2

Also portion of Section 6, Township 13 North, Range 16 West, Mount Diablo Base and Meridian described as follows:
BEGINNING at a 1/2 inch pipe set to mark the Northeast corner of Lot 1, Unit 4, Mendocino Coast Subdivision, as shown on map filed in Case 2, Drawer 11, page 26, Mendocino County Records; thence from point of beginning South 89° 48' East 280.00 feet to a 1/2 inch pipe; thence North 00° 12' West 61.50 feet; thence North 89° 56' East 400.00 feet; thence South 00° 12' 00" East to the North line of the Southwest quarter of the Northeast quarter of said Section 6; and the true point of beginning of the land to be described; thence from said true point of beginning North 89° 56' East along the last said line to the centerline of Irish Gulch; thence Westerly downstream along said centerline to a point from which the true point of beginning bears North 02° 00' West; thence North 02° 00' West to the true point of beginning.

EXCEPTING FROM PARCELS THREE AND FOUR that portion thereof lying within the following described parcel of land:
Portion of Section 6, Township 13 North, Range 16 West, Mount Diablo Base and Meridian described as follows:
BEGINNING at a 1/2 inch pipe set to mark the Northeast corner of Lot 1, Unit 4, Mendocino Coast Subdivision, as shown on map filed in Case 2, Drawer 11, page 26, Mendocino County Records; thence from point of beginning South 89° 48' East 280.00 feet to a 1/2 inch pipe; thence North 00° 12' West 61.50 feet; thence North 89° 56' East 400.00 feet; thence South 00° 12' 00" East 795.00 feet, more or less, to the centerline of Irish Gulch; thence Westerly downstream along the centerline of said gulch 720.00 feet, more or less, to a point from which the point of beginning bears North 02° 00' 00" West 875.00 feet; thence North 02° 00' 00" West 875.00 feet to the point of beginning.

PARCEL FIVE:

✓ Lots 1, 2 and the Northerly half of Lot 3 in Section 5, Township 13 North, Range 16 West, Mount Diablo Base and Meridian.

PARCEL SIX:

— The 18.25 acre parcel as designated as Parcel 1 on the Parcel Map recorded December 1, 1975, in Map Case 2, Drawer 27, Page 41, Mendocino County Records.

PARCEL SEVEN:

— The 18.32 acre parcel designated as Parcel 2 on the Parcel Map recorded December 1, 1975, in Map Case 2, Drawer 27, Page 41, Mendocino County Records.

Continued.....

EXHIBIT "A"
PAGE 3

PARCEL EIGHT:

The 18.25 acre parcel designated as Parcel 3 on the Parcel Map recorded December 1, 1975, in Map Case 2, Drawer 27, Page 41, Mendocino County Records.

PARCEL NINE:

The 18.25 acre parcel designated as Parcel 4 on the Parcel Map recorded December 1, 1975, in Map Case 2, Drawer 27, Page 41, Mendocino County Records.

PARCEL TEN:

The North half of the Southeast quarter of the Southwest quarter of Section 32, Township 14 North, Range 16 West, Mount Diablo Base and Meridian.

PARCEL ELEVEN:

The South half of the Southeast quarter of the Northeast quarter of Section 32, Township 14 North, Range 16 West, Mount Diablo Base and Meridian.

EXHIBIT "B"

RECORDING REQUESTED BY

MAIL TAX STATEMENT TO
Same as below
WHEN RECORDED MAIL TO

Name
Street
City &
State

Pran M. Layton
Shute, Mihaly & Weinberger
396 Hayes Street
San Francisco, CA 94102

\$30.00	PAID
FCO	FILED
<input checked="" type="checkbox"/>	Exempt

11632

RECORDED AT REQUEST OF
FIDELITY NATIONAL TITLE INS. CO.
BOOK 1697 PAGE 412
JUL 20 10 30 AM '88

OFFICIAL RECORDS
MENDOCINO COUNTY CALIF
MARSHA A. YOUNG
RECORDER

no fee HP

SPACE ABOVE RECORDERS USE ONLY

ORIGINAL
RECORD NO. 106132

GRANT DEED (INDIVIDUAL)

The undersigned grantor(s) declare(s):
Documentary transfer tax is \$ _____

Easement

- () Computed on full value of property conveyed, or
- () Computed on full value less value of liens and encumbrances remaining at time of sale.
- () Unincorporated area () City of _____
Tax Parcel No. _____

WILLIAM M. MOORES and TONA ELIZABETH MOORES, his wife

FOR A VALUABLE CONSIDERATION, HEREBY GRANT TO
IRISH BEACH WATER DISTRICT

the real property in the County of Mendocino State of California, described as:

SEE DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF:

Dated _____

William M. Moores
WILLIAM M. MOORES
Tona Elizabeth Moores
TONA ELIZABETH MOORES

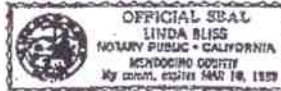
Individual Acknowledgment

STATE OF CALIFORNIA
County of Mendocino

On this 5th day of July in the year 88, before me, the undersigned, a Notary Public in and for said County and State, personally appeared William M. Moores and Tona Elizabeth Moores

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to this instrument and acknowledged that they executed it

WITNESS my hand and official seal
Linda Bliss
Notary Public in and for said County and State



(Notary Seal)

MAIL TAX STATEMENT AS DIRECTED ABOVE

FD-138

SODERBERG TANK SITE, WELL, AND PIPELINE EASEMENT

A 60' Tank Site and water system appurtenances Easement lying within Section 32, Township 14 North, Range 16 West, M.D.S. & M. and being more particularly described as follows:

Beginning at a 3/4" rebar tagged LS1889 and being the Southeast corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino County Records; thence North 4° 43' 28" East along the easterly line of said Parcel 2, 60.00 feet; thence South 88° 49' 21" West, 60.00 feet; thence South 4° 43' 28" West, 60.00 feet to the southerly line of said parcel; thence along said line North 88° 49' 21" East 60.00 feet to the point of beginning, together with a 1 foot wide non-access strip along the westerly boundary of said tank site and a 14' road access and water system appurtenances and 30' diameter well easement lying within Section 32, Township 14 North, Range 16 West, M.D.S. & M. and being more particularly described as follows:

Commencing at a 3/4" rebar tagged LS1889 and being the Southeast corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino County Records; thence South 88° 49' 21" West, 60.00 feet; thence North 4° 43' 28" West, 30.00 feet to the point of beginning of the easement to be herein described and lying equally left and right of the following line; thence South 86° 19' 31" West, 178.67 feet; thence North 43° 24' 17" West, 254.97 feet to an existing wall; thence South 47° 46' 12" West 229.70 feet, more or less, to an existing road as shown per said parcel map and a 30' diameter well easement around the well referred to above, together with all water in said well and the right to extract said water.

100' DIAMETER WATER TANK

A water tank and water system appurtenances easement as follows:

COMMENCING at a 1 inch rebar with a brass tag marked L83889, per the Parcel Map recorded December 1, 1975, filed in Map Case 2, Drawer 27, Page 31, Mendocino County Records.

Said point of commencement is the South 1/16 corner between Sections 31 and 32, Township 14 North, Range 16 West, Mount Diablo Meridian, and running thence North $56^{\circ} 21' 35''$ West, 58.22 feet, thence South $53^{\circ} 28' 05''$ West 388.35 feet, thence South $57^{\circ} 26' 55''$ West, 228.31 feet to a point along the existing road and utility easement. Said point of beginning of the center line of a 20 foot easement, thence North $11^{\circ} 21' 37''$ East, 182.00 feet to a point which is the center of a Water Tank Easement with a 100 foot diameter.

BOOK 1697 PAGE 414

CERTIFICATE OF ACCEPTANCE

BY RESOLUTION NO. 1988-3, adopted July 6, 1988, the Board of Directors of the IRISH BEACH WATER DISTRICT accepted this property, described in that July 5, 1988 Grant Deed from WILLIAM M. MOORES and TONA ELIZABETH MOORES, his wife, to IRISH BEACH WATER DISTRICT, on behalf of the IRISH BEACH WATER DISTRICT.

DATED: July 17, 1988

Reuben Balzer
REUBEN BALZER, President
IRISH BEACH WATER DISTRICT

EXHIBIT "C"

12589

RECORDED AT REQUEST OF
FIDELITY NATIONAL TITLE INS. CO.

BOOK 1764 PAGE 92

JUL 19 11 22 AM '83

OFFICIAL RECORDS
MENDOCINO COUNTY CALIF
MARSHA A. YOUNG
RECORDER

MAIL TO:

IRISH BEACH WATER DISTRICT
P.O. Box 67
MANCHESTER, CA 95459

10615

Moore
op

WATER DEVELOPMENT AGREEMENT BETWEEN
WILLIAM MOORES, TONA MOORES, MOORES ASSOCIATES AND
THE IRISH BEACH WATER DISTRICT

This Water Development Agreement ("Agreement") is made and entered into this 6th day of July, 1988, by and between the Irish Beach Water District ("DISTRICT"), WILLIAM MOORES, TONA MOORES and MOORES ASSOCIATES, a California partnership.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

ASSIGNMENT OF WATER RIGHTS IN MALLO PASS CREEK

1. MOORES ASSOCIATES hereby assigns to the DISTRICT all of its rights, titles and interests in State Water Resources Control Board Permit No. 16622 ("Permit No. 16622"). DISTRICT hereby accepts the assignment and agrees to integrate the Mallo Pass Creek water diversion project, associated with Permit No. 16622, into the existing DISTRICT water supply system. This assignment is made in full compliance with paragraph seventeen of Permit No. 16622. The Assignment by MOORES ASSOCIATES of its rights in Permit No. 16622 shall be executed prior to or simultaneously with execution of this Agreement and shall be attached hereto as Exhibit 1.

NO. 9 ACREAGE WELL

2. (a) MOORES ASSOCIATES, WILLIAM MOORES and TONA MOORES hereby assign to the DISTRICT all of their rights, titles and interest in the existing 276.5 foot well located east of Unit #9 and more specifically described in Exhibit 2 attached hereto ("the No. 9 well"). The Assignment by MOORES ASSOCIATES, WILLIAM MOORES and TONA MOORES of their rights in the No. 9 well shall be executed prior to or simultaneously with the execution of this Agreement and shall be attached hereto as Exhibit 3. DISTRICT hereby accepts the assignment and agrees to integrate the No. 9 well into the existing DISTRICT water supply system.

(b) WILLIAM MOORES will provide the DISTRICT with the sketch plans and construction details for the improvements necessary to extract water from the No. 9 well and to integrate the well into the DISTRICT's existing water supply system. These plans, as approved by the DISTRICT pursuant to Paragraph 14 below, are appended hereto as Exhibit 4. The No. 9 well shall be developed according to the Exhibit 4 plans submitted by WILLIAM MOORES and approved by the DISTRICT. The DISTRICT shall, prior to construction, approve the contractor(s) selected by WILLIAM MOORES to construct the Exhibit 4 improvement facilities for the No. 9 well. Such approval shall not be unreasonably withheld.

(c) The DISTRICT shall commit \$25,000.00 toward the construction and installation of the Exhibit 4 improvements. The DISTRICT agrees to pay all costs and/or expenses which are incurred for legal or engineering

services or other non-construction/installation items associated with the Exhibit 4 improvements for the No. 9 well. (The No. 9 well improvements (Exhibit 4) are not part of the Unit #9 storage and distribution system, as described in Paragraph 8(a) below, or the Mallo Pass Creek improvements, as described in Paragraph 3(a) below.) The costs for which the DISTRICT is liable include costs associated with the inspection and testing of the as-built facilities for the No. 9 well. WILLIAM MOORES agrees to provide any and all funds in excess of \$25,000.00, if required, to complete the necessary construction and installation of the Exhibit 4 improvements for operation of the No. 9 well. The DISTRICT's engineer shall conduct an on-site inspection and testing of the as-built Exhibit 4 facilities. Once the DISTRICT has approved the as-built facilities, WILLIAM MOORES shall convey to the DISTRICT lien free all of his rights, title and interest in the Exhibit 4 facilities, with the exception of the individual, private service connections. The DISTRICT shall pay WILLIAM MOORES the \$25,000.00 for the Exhibit 4 facilities in the following installments: \$10,000 thirty (30) days after either DISTRICT approval of the Exhibit 4 plans or execution of this Agreement, whichever occurs later; \$8,750 upon completion of the Exhibit 4 improvement facilities for the No. 9 well; and the balance of the \$25,000 within 15 days after the DISTRICT approves the as-built facilities and WILLIAM MOORES conveys to the DISTRICT his title and interest in the Exhibit 4 facilities.

(d) The parties to this Agreement acknowledge that the assignment to the DISTRICT of all rights, titles and interests in the No. 9 well is intended to facilitate, in part, the DISTRICT's ability to provide water to the existing eleven (11) acreage parcels north of Irish Creek and east of Units 7, 8 and 9. A parcel map depicting these eleven (11) acreage parcels is appended hereto as Exhibit 5. WILLIAM MOORES and TONA MOORES have sold two (2) of the eleven (11) acreage parcels. Kristine Elizabeth Martin ("MARTIN") acquired title by deed to Parcel 4 on the Exhibit 5 map, recorded in Book 1620 at page 380 on April 29, 1987. Deanna L. J. Harrison ("HARRISON") acquired title by deed to Parcel 5 on the Exhibit 5 map, recorded in Book 1576 at page 571 on August 27, 1986. In addition, Virgil Soderberg and K. A. Soderberg ("SODERBERG") are in the process of purchasing Parcel 6 on the Exhibit 5 map. In the event that any owner of the eight (8) acreage parcels north of Irish Creek and east of Units 7, 8 and 9 (Parcels 1 through 3, and 7 through 11 on the Exhibit 5 map) which are presently owned by GORDON MOORES and/or WILLIAM MOORES wishes to hook up to the No. 9 well after completion of the Exhibit 4 facilities and conveyance of the facilities to the DISTRICT, the owner shall pay the DISTRICT the required hook-up fee of \$3,500.00 for each hook up as a precondition to such hook up at the No. 9 well tank. All other installation expenses shall be borne by the parcel owners. Each hook up will be billed according to metered water usage.

(e) In the event that the No. 9 well fails during its first year of operation, WILLIAM MOORES shall reimburse the DISTRICT for its entire initial capital outlay of \$25,000.00, less hook-up fees paid to the DISTRICT as set forth below. The parties agree that the No. 9 well "fails" when and if either of the following occurs: (1) When a pump test conducted in accordance with section 64563 of Title 22, California Code of Regulations (California Water Works Standards) fails to produce a sustained yield of seven (7) gallons per minute and the DISTRICT demonstrates, using a meter installed at the pump site, that during the three (3) months prior to the pump test, the amount of water pumped out of the No. 9 well has not exceeded fifteen (15) gallons per minute for sixteen (16) hours per day; or (2) The water from the No. 9 well cannot comply with minimum State of California potable water standards for a public water system without expending more money to treat the water so that it complies with the minimum State of California standard than the cost of providing the water from another available source. The following chart specifies the amount of money that WILLIAM MOORES must reimburse to the DISTRICT if the No. 9 well fails in years one (1) through nine (9) of its operation. For purposes of determining the year in which the No. 9 well fails, the first year of operation commences on the date that the No. 9 well has been tested and accepted for service by the DISTRICT. Prior to any reimbursement by WILLIAM MOORES, the DISTRICT shall subtract from the specified reimbursement amount the prorated amount of the

total of all hook-up fees paid to the DISTRICT by the owners of Parcels 1 through 3 and 7 through 11 on the Exhibit 5 map, less the DISTRICT's assessed meter and service connection fee. For example, in year two, any reimbursement to the DISTRICT by WILLIAM MOORES will be offset by an amount equal to eight-ninths of all hook up fees (\$3,500 per hook up) paid to the DISTRICT by the owners of the Exhibit 5 acreage parcels, less the DISTRICT's meter and service connection fee.

<u>YEAR</u>	<u>REIMBURSEMENT AMOUNT</u>
1	\$25,000.00
2	\$22,222.22
3	\$19,444.44
4	\$16,666.67
5	\$13,888.89
6	\$11,111.11
7	\$ 8,333.33
8	\$ 5,555.55
9	\$ 2,777.78

(f) On October 11, 1986, WILLIAM MOORES and TONA MOORES, GORDON MOORES and SANDRA MOORES, executed an agreement with MARTIN granting her certain rights to the No. 9 well, including the right to withdraw from the well a maximum of 1,500 gallons per day for residential use. On August 13, 1986, WILLIAM MOORES and TONA MOORES, GORDON MOORES and SANDRA MOORES, executed an agreement with HARRISON granting her certain rights to the No. 9 well, including the right to withdraw from the well a maximum of

400 gallons per day for residential use. WILLIAM MOORES and TONA MOORES intend to execute an agreement with SODERBERG granting them certain rights to the No. 9 well, including the right to withdraw from the well a maximum of 500 gallons per day for residential use. WILLIAM MOORES agrees to provide the DISTRICT with three agreements executed separately by MARTIN, HARRISON and SODERBERG which provide that the DISTRICT's obligation to provide water service to MARTIN, HARRISON and SODERBERG, respectively, will be limited as follows:

Service of water from the No. 9 well will be considered service for domestic use from the DISTRICT's water supply system, and service will be limited to the amount of water specified in the particular owner's agreement with MOORES ASSOCIATES. In the event that the No. 9 well fails as defined in paragraph 2(e) above, the DISTRICT will provide water to MARTIN, HARRISON and SODERBERG from other existing water sources so long as each pays the DISTRICT for the entire cost to pump water to their lands from the No. 9 water storage tank. In addition, MARTIN, HARRISON and SODERBERG will pay the metered water rates in effect at that time. The agreements executed by MARTIN, HARRISON and SODERBERG shall be binding upon and shall inure to the benefit of their respective heirs, successors and assigns.

(g) In the event that the No. 9 well fails, as defined in Paragraph 2(e) above, the DISTRICT will continue

to provide water to these properties which have paid the \$3,500.00 hook-up fee and to MARTIN, HARRISON and SODERBERG only if these lot owners pay the DISTRICT for its entire cost to pump water up to these acreage parcels. This limitation of the DISTRICT's obligations with respect to the provision of water service to the owners of the acreage lots shown on Exhibit 5, including a limitation on service of 500 gallons per day for residential use to each of the owners of Parcels 1 through 3 and 6 through 11 on the Exhibit 5 map, a limitation on service of 1,500 gallons per day for residential use to MARTIN (Parcel 4 on the Exhibit 5 map), and a limitation on service of 400 gallons per day for residential use to HARRISON (Parcel 5 on the Exhibit 5 map), shall be recorded, within thirty (30) days of the execution of this Agreement, with the Mendocino County Recorder's office.

MALLO PASS CREEK WATER FACILITIES CONSTRUCTION PROJECT

3. (a) The DISTRICT shall develop the Mallo Pass Creek Water Facilities Construction Project ("Project") (described in detail in the engineering and other technical drawings and documents appended hereto as Exhibit 6) which shall include: diversion and other related facilities at the Mallo Pass diversion site, including a catchment basin and associated pumps; conveyance facilities in the nature of pipeline; a water treatment plant, including but not necessarily limited to filtration; transmission pipelines; storage tanks and other related facilities; and all booster and lift pumps necessary to distribute water throughout the system. Conveyance and transmission pipeline for the Project shall be constructed in order to convey water from Mallo Pass Creek to the treatment plant and from the treatment plant to the main transmission lines and storage tanks for full integration into the DISTRICT's water supply system.

(b) The Project has several purposes. First, the Project is intended to develop Mallo Pass Creek water under State Water Resources Control Board Permit No. 16622. Second, the Project shall be integrated into the DISTRICT's water supply system so that a water supply can be distributed throughout that system to provide water for the entire district. Third, the Project shall provide a water supply for 54 hook ups, at a maximum rate of 500 gallons per day per residential unit, at Irish Beach Unit #9 and the Inn Site, north of Unit #1 ("Inn Site"), if and when the Inn

Site has received all necessary permits and approvals for development. Prior to providing water service to the Inn Site, the DISTRICT will calculate the number of hook up equivalents necessary to serve the Inn Site, based on the plans submitted at that time. The hook up equivalent will be the number of gallons per day the Inn Site requires, divided by 500.

(c) Costs associated with the Project are to be borne by WILLIAM MOORES and the DISTRICT pursuant to the provisions of Paragraphs 4 through 6 below.

(d) For the purpose of this Agreement, the phrase "engineering and other technical drawings and documents" as it may be used throughout this Agreement means the engineering and technical documents which the DISTRICT has approved and which are attached hereto as Exhibit 6. The Project, as defined in Exhibit 6, may be modified subsequent to the DISTRICT's approval of the drawings and plans, as required by Paragraph 14 of this Agreement. Modification of Exhibit 6 documents and drawings and any resulting modification in project costs will be pursuant to the provisions of Paragraph 6 of this Agreement.

PROJECT COSTS

4. WILLIAM MOORES and the DISTRICT agree to the following with respect to costs associated with the development of water facilities for the Project:

(a) WILLIAM MOORES will deposit funds with the DISTRICT to be held in a separate account entitled "Mallo

Pass Diversion Project Capital Improvement Fund ("Mallo Pass Fund") as specified in this Paragraph 4.

(b) WILLIAM MOORES shall secure three bids from licensed contractors, approved by the DISTRICT prior to bid submission, to construct the Project, as specified in the Exhibit 6 engineering and technical drawings and documents. The DISTRICT will retain the services of a certified engineer, whose fee will be paid by WILLIAM MOORES, to review the middle bid submitted to determine if the bid is realistic and can appropriately serve as the basis for calculating both the Project cost and the amount of WILLIAM MOORES' payments into the Mallo Pass Fund. WILLIAM MOORES' payment of the engineer's fee to review the bids is separate and distinct from the payment provisions specified in the remainder of this Paragraph, particularly subsection (j), and is in addition to the total Project cost described in Paragraph 4(c). In the event that the DISTRICT's engineer determines that the middle bid is not realistic, the DISTRICT and WILLIAM MOORES shall revise the bid as necessary after consulting with their engineers ("revised bid"). If the parties are unable to reach agreement on a revised bid, the parties will jointly select an engineer to review the bid and determine an appropriate revised bid amount. WILLIAM MOORES and the DISTRICT shall each pay one half of the fee of the engineer who arbitrates the dispute over the appropriateness of the middle bid. WILLIAM MOORES' obligation to pay one-half of the fee of the engineer who arbitrates the dispute described in this Paragraph 4(b) is

in addition to the total Project costs described in Paragraph 4(c) and is separate and distinct from the payment provisions specified in Paragraph 4(j). The DISTRICT shall approve the middle bid or revised middle bid.

(c) The "total Project cost" is the amount of the middle bid or the revised middle bid, as described in Paragraph 4(b) above, for construction of all required facilities for the Project plus a cost surcharge of seven percent (7%) of the amount of the middle bid or revised middle bid. The cost surcharge will cover the DISTRICT's costs, expenses and fees directly related to construction, review and approval of the Project. At this time, the DISTRICT anticipates that the costs and expenses which constitute the cost surcharge will include engineering, inspection and legal fees, costs of maintaining the necessary bank accounts, costs related to obtaining the necessary permits to operate the Project, and DISTRICT office expenses. The total Project cost shall be inflated at five percent (5%) per year, compounded annually, to arrive at the "target Project cost."

(d) WILLIAM MOORES will provide the down payment for the project, as provided hereafter in this paragraph, no later than thirty (30) days after the DISTRICT has approved the bid for the Project, as specified in Paragraph 4(b) above, and notified WILLIAM MOORES in writing of the exact amount of the down payment he must provide to the DISTRICT. The down payment shall be fifteen percent (15%) of the total Project cost, but in no event will the down payment be less

than \$16,000.00 nor more than \$40,000.00. The DISTRICT will invest the funds in two-year certificates of deposit or as otherwise permitted by the laws of the State of California. WILLIAM MOORES may, at his option, prepay in full the "outstanding indebtedness of the Project" (as defined in Paragraph 4(f) below).

(e) As used in this Paragraph 4, the term "CD rate" means the highest rate paid on certificates of deposit with terms of between two and three years then being offered by any commercial bank or federally insured savings and loan company ("financial institution") at which the DISTRICT then does business. Within five (5) days of written request from the DISTRICT, WILLIAM MOORES may submit a quoted rate for two-to-three year certificates of deposit then being offered by any other financial institution. If such financial institution and such rate are acceptable to the DISTRICT for investment purposes, then such rate shall be deemed to be the CD rate in effect at the time. The "amortization payment" shall be calculated by the DISTRICT to equal an amount which, if deposited into the Mallo Pass Fund annually on the first fifteen (15) anniversaries of the date of this Agreement, and invested by the DISTRICT at the CD rate in effect on the first anniversary of the date of this Agreement, would equal the target Project cost on the fifteenth (15th) anniversary of the date of this Agreement. On the first anniversary of the date of this Agreement, WILLIAM MOORES shall make a payment into the Mallo Pass Fund in the amount of the amortization payment.

(f) WILLIAM MOORES shall pay in full the outstanding indebtedness of the Project (as defined below) on the second (2nd) anniversary of the date of this Agreement. The "outstanding indebtedness of the Project" on any particular date (the "calculation date") shall be calculated to be the amount which, if then deposited into the Mallo Pass Fund and invested at the CD rate in effect on such calculation date, would equal the target Project cost on the fifteenth anniversary of the date of this Agreement when added to the balance of the Mallo Pass Fund existing as of such calculation date. At the time of making the payment required by this subparagraph (f), WILLIAM MOORES shall pay in full the amount of any increase in the total Project cost resulting from changes to the Exhibit 6 engineering plans required by the Department of Health Services as part of its review and approval of the Exhibit 6 plans, as described in Paragraph 6(a) below. Attached hereto as Exhibit 7 is an example of the calculation of the target Project cost and the amortization payment.

(g) The DISTRICT shall use the funds in the Mallo Pass Fund and the interest earned on the funds in the account only for construction of the Project or its equivalent and its integration into the DISTRICT's existing water system, as specified in Exhibit 6 hereto, and for payment of the DISTRICT's costs and expenses as specified in Paragraph 4(j) below. The DISTRICT shall not use the segregated trust account funds for any other purpose.

(h) WILLIAM MOORES shall convey to the DISTRICT a security interest in the number of lots shown on the Final Map for Unit #9 by a first deed of trust, with power of sale, in the form attached hereto as Exhibit 8, securing the obligation of WILLIAM MOORES to pay to the DISTRICT the outstanding indebtedness of the Project, as defined in Paragraph 4(f), plus default interest as set forth below, and also securing the performance by the trustor of its obligations contained in the deed of trust, and the other obligations of WILLIAM MOORES as provided in this Paragraph 4(h). The deed of trust shall not secure any of the other obligations of WILLIAM MOORES under this Agreement. The deed of trust shall be executed simultaneously with the execution of this Agreement and, following the recordation thereof, shall be attached hereto as Exhibit 9. The following shall apply:

(1) The deed of trust shall provide for the release of the lien of the deed of trust from each lot in Unit #9, provided that (i) WILLIAM MOORES is not then in default with respect to any of his obligations under this Paragraph 4(h) or his obligation to make any payments to the DISTRICT; and (ii) prior to such partial release, WILLIAM MOORES deposits the unit lot amount therefor into the Mallo Pass Fund. As used in this Paragraph 4(h), the term "unit lot amount" means twice the total Project cost as defined in Paragraph 4(c), divided by the number of lots shown on the Final Map for Unit #9. The DISTRICT shall release the lien of the deed of trust on all encumbered lots at any time upon

(1) WILLIAM MOORES' deposit into the Mallo Pass Fund of the full amount of the outstanding indebtedness of the Project (as defined in Paragraph 4(f)), or (ii) upon WILLIAM MOORES' provision of a letter of credit meeting the requirements of subparagraph (5), below. WILLIAM MOORES shall pay all costs associated with the preparation, execution, delivery and recordation of the lien releases provided for herein. WILLIAM MOORES shall direct Fidelity National Title Insurance Company, or another company of his choice, to prepare, deliver and record the lien releases, as provided in this Paragraph 4(h)(1). Payment by WILLIAM MOORES of the costs specified herein is in addition to the total Project costs described in Paragraph 4(c) and is separate and distinct from the payment provisions specified in Paragraph 4(j).

(2) The deed of trust shall be filed for record in the office of the County Recorder for Mendocino County. The interest of the DISTRICT, as beneficiary under the deed of trust, shall be insured by Fidelity National Title Company under a standard form CLTA lenders' policy of title insurance in the amount of the total Project cost, as defined in Paragraph 4(c), which shall insure that the lien of the deed of trust constitutes a first lien on all of the lots shown on the Final Map for Unit #9, subject only to current real property taxes not yet due and payable. WILLIAM MOORES shall pay all costs associated with the preparation, execution and delivery of the deed of trust, the recordation thereof, and the premium for issuance of

such title policy. WILLIAM MOORES shall direct Fidelity National Title Insurance Company to prepare, deliver and record the deed of trust, as provided in this Paragraph 4(h) (2). Payment by WILLIAM MOORES of the costs specified herein is in addition to the total Project costs described in Paragraph 4(c) and is separate and distinct from the payment provisions specified in Paragraph 4(j).

(3) The payments required by Paragraphs 4(d), 4(e), and 4(f) and any other amounts secured by the deed of trust not paid when due shall bear interest at 10% per annum ("default interest"). If any such payment is not paid within fifteen (15) days after the same is due, or if there is any default under the deed of trust not cured within the time specified therein, then the entire amount of the outstanding indebtedness of the Project (as defined in Paragraph 4(f) and determined as of the date of default), plus any unpaid default interest shall, at the option of the DISTRICT, and without further notice to WILLIAM MOORES, immediately become due and payable. The failure of the DISTRICT to exercise this option with regard to any particular default shall not be construed as a waiver of these provisions as to any subsequent default. The DISTRICT shall thereafter have the right, as beneficiary under the deed of trust, to cause the encumbered property to be sold in accordance with the terms of the deed of trust to satisfy the debt, or the DISTRICT may commence an appropriate action to foreclose the deed of trust, and may take any other

action to enforce its rights and remedies as it may deem appropriate.

(4) The DISTRICT's agreement to accept a lien on all of the lots shown on the Final Map for Unit #9 as security for the payments to be made hereunder by WILLIAM MOORES has been given in express reliance upon the representation of WILLIAM MOORES that each such lot has a fair market value of at least \$95,000. This value is estimated by the parties to be at least eight (8) times the anticipated unit lot amount. Accordingly, at any time and from time to time prior to the DISTRICT's full release of the lien of the deed of trust, the DISTRICT may obtain an appraisal from a qualified MAI appraiser of the property then encumbered by the deed of trust. WILLIAM MOORES shall pay the cost of the appraisal of the property encumbered by the first deed of trust if the appraisal concludes that the fair market value of the encumbered property is less than eight (8) times the unit lot amount multiplied by the number of lots then encumbered; if the appraisal concludes that the fair market value of the encumbered property is more than eight (8) times the unit lot amount multiplied by the number of lots then encumbered, the DISTRICT shall pay the cost of the appraisal it requested. WILLIAM MOORES' obligation to pay for the cost of an appraisal of the encumbered property under the circumstances described above is in addition to his obligation to provide the total Project cost specified in Paragraph 4(c) and is separate and distinct from the payment provisions described in Paragraph 4(j). If the

appraised fair market value of the encumbered property is at any time less than eight (8) times the unit lot amount multiplied by the number of lots then encumbered, then the DISTRICT may, at its option and in addition to the exercise of any other remedies to which it may be entitled, declare all sums secured by the deed of trust immediately due and owing and foreclose the deed of trust, either judicially or by exercise of the power of sale at DISTRICT's election, or may require the immediate deposit by WILLIAM MOORES of an irrevocable letter of credit meeting the requirements of subparagraph (5), below. The failure of WILLIAM MOORES to provide a letter of credit within five (5) days of demand by the DISTRICT under this subparagraph shall entitle the DISTRICT at its option to declare all sums secured by the deed of trust immediately due and owing and to foreclose the deed of trust, either judicially or by exercise of the power of sale at DISTRICT's election, in addition to exercising any other remedies to which it is entitled.

(5) The letter of credit shall be issued by a bank satisfactory to the DISTRICT, shall name the DISTRICT as the beneficiary thereunder, and shall be in the full amount of the outstanding indebtedness of the Project (as defined in Paragraph 4(f) and determined as of the date of demand for deposit of such letter of credit). Failure by WILLIAM MOORES to make any payment owed to the DISTRICT under Paragraphs 4(d), 4(e), or 4(f) when due, or to renew a letter of credit not later than thirty (30) days prior to

its expiration, shall entitle the DISTRICT to draw immediately on the full amount of the letter of credit.

(i) On May 10, 1988, the California Coastal Commission approved the joint application of the DISTRICT and WILLIAM MOORES for a water diversion from Mallo Pass Creek and for construction of the Project ("Coastal Commission Permit No. 1-87-142"). Coastal Commission Permit No. 1-87-142 limits the water diversion from Mallo Pass Creek to 50 gallons per minute ("50 gpm"); the Coastal Commission's Findings provide that the DISTRICT may amend Permit No. 1-87-142 to permit a diversion from Mallo Pass Creek in excess of 50 gpm upon a showing of need. The DISTRICT retains all rights to seek modification of any permits, including the right to apply to the Coastal Commission for an amendment to Permit No. 1-87-142 to permit the diversion of more than the 50 gpm currently provided for in the permit up to the maximum diversion allowed under State Water Resources Control Board Permit No. 16622.

(j) Until such time as all parties have executed this Agreement, the DISTRICT shall pay its costs and expenses, as set forth below, related to: preparation of this Agreement; development of the Project; obtaining all permits and approvals for development of Unit #9; and development of the Unit #9 facilities, as set forth in a letter Agreement dated April 26, 1988 and executed by WILLIAM MOORES on May 17, 1988. This letter Agreement is attached hereto as Exhibit 10 and incorporated by reference as though fully set forth herein. In addition to the

provisions of the Exhibit 10 letter Agreement, the DISTRICT agrees that it will, no later than 45 days after WILLIAM MOORES deposits the down payment for the Project into the Mallo Pass Fund, as specified in Paragraph 4(d) above, provide WILLIAM MOORES with a comprehensive statement of all of the DISTRICT's legal costs and expenses incurred from March 12, 1988 through the date of the execution of this Agreement, associated with: preparation of this Agreement; development of the Project; obtaining all permits and approvals for development of Unit #9; and development of the Unit #9 facilities, which are reimbursable by WILLIAM MOORES as per the Exhibit 10 letter Agreement and this Agreement. The statement shall include a daily log of hours billed to the DISTRICT and a description of the work performed during each day's billings. The DISTRICT shall provide WILLIAM MOORES with a similar statement regarding its engineering expenses, through the date of the execution of this Agreement, for the Project, and for the Unit #9 facilities, within 45 days after the DISTRICT's acceptance of the Unit #9 distribution facilities and appurtenances. The DISTRICT will also provide WILLIAM MOORES, at the same time it provides him with a statement of its engineering expenses, with a statement of all other costs through the date of the execution of this Agreement, associated with: preparation of this Agreement; development of the Project; obtaining all permits and approvals for development of Unit #9; and development of the Unit #9 facilities, which are reimbursable by WILLIAM MOORES as per the Exhibit 10 letter

Agreement and this Agreement. In the event that WILLIAM MOORES has deposited funds with the DISTRICT for its costs, as per the Exhibit 10 letter Agreement and this Agreement, which are in excess of the DISTRICT's actual costs through the date of the execution of this Agreement, the DISTRICT shall refund such excess amounts to WILLIAM MOORES no later than 45 days after the DISTRICT completes all of the expense statements described above. In the event that any provision of this Agreement is found to be inconsistent with the Exhibit 10 letter Agreement, this Agreement governs as to such provision. Once this Agreement is executed by all parties, the DISTRICT, except as explicitly provided for in this Agreement, will not assess WILLIAM MOORES for costs or expenses incurred after such date of execution which are related to development of the Project, to obtaining permits and approvals for development of Unit #9, and to development of the Unit #9 facilities, but will rather withdraw funds for this purpose from the Mallo Pass Fund, as set forth in Paragraph 4(g), above.

PARTIAL REIMBURSEMENT OF PROJECT COSTS

5. (a) The Project, as described in the Exhibit 6 drawings and documents, has been designed to divert, convey and treat 50 gpm from Mallo Pass Creek. The parties agree that the 50 gpm should supply service to 144 water hook ups at the rate of 500 gallons per day per residential unit. As specifically provided in Paragraph 7(a) below, the DISTRICT agrees to provide a water supply, at a maximum rate of 500 gallons per day per residential unit, to 54 hook ups at lots in the Irish Beach area which may be approved for development (i.e., Unit #9 and the Inn Site), so long as WILLIAM MOORES and MOORES ASSOCIATES are in compliance with all terms of this Agreement. The DISTRICT agrees to reimburse WILLIAM MOORES for that portion of the cost of the Project, including seven percent (7%) interest, in excess of the construction cost required for a Project which would divert, convey and treat the water necessary to service 54 hook ups at the rate of 500 gallons per day per residential unit. Reimbursement by the DISTRICT will be made in accordance with Paragraphs 5(b) and 5(c).

(b) The DISTRICT's engineer and WILLIAM MOORES' engineer, immediately after the Project plans are approved, shall jointly determine the cost of the Project if it were to be constructed solely to benefit the 54 hook ups reserved for future development in the Irish Beach area. In determining the cost of the project that would serve 54 hook ups, the engineers shall include some portion, if not all, of each of the costs which WILLIAM MOORES claims as actual

Project costs under Paragraph 5(c). In the event that these engineers cannot agree on the cost of such a smaller project, the parties shall jointly select an engineer to determine the cost of a project which would solely benefit 54 hook ups. WILLIAM MOORES and the DISTRICT shall each pay one half of the fee of the engineer who arbitrates the dispute over the cost of the smaller project. WILLIAM MOORES' obligation to pay one-half of the fee of the engineer who arbitrates the dispute described in this Paragraph 5(b) is in addition to the total Project costs described in Paragraph 4(c) and is separate and distinct from the payment provisions specified in Paragraph 4(j).

(c) The DISTRICT will reimburse WILLIAM MOORES for the difference between the calculated cost of a project that would solely benefit 54 hook ups and his actual Project costs (not to exceed \$300,000.00), plus seven percent (7%) interest, incrementally, at the time of each new hook up to the DISTRICT's water system by properties which, at the time of the execution of this Agreement, are not either paying standby fees to the DISTRICT or receiving water service from the DISTRICT. WILLIAM MOORES shall submit to the DISTRICT a statement of his claimed actual Project costs reimbursable under this Agreement no later than 45 days after the filing of the Final Map for Irish Beach Unit #9. Reimbursement by each of these new hook ups will be determined by taking the cost difference determined pursuant to Paragraph 5(b) above, plus seven percent (7%) interest, and dividing that figure by 90, the number of new hook ups the Project is capable of

servicing beyond the 54 hook ups reserved to WILLIAM MOORES under this Agreement. In the event that WILLIAM MOORES obtains the necessary permits and approvals to develop Irish Beach Unit #6 during the next 36 months, as described in Paragraph 7(a) below, the number of hook ups required to provide service to the lots in Unit #6 will be credited against the 90 new hook ups the Project can serve beyond the 54 hook ups reserved to WILLIAM MOORES under this Agreement.

MODIFICATION OF THE PROJECT

6. (a) The parties recognize three possible areas which may require modification of the Project from the way it is currently constituted as depicted in Exhibit 6 hereto: (1) The parties agree that it may be necessary to modify the Project to take advantage of technological advances that may be developed prior to Project construction; (2) The parties also agree that the Project may need to be modified in order to provide broader benefits to the DISTRICT as a whole than is contemplated by the Project as depicted in Exhibit 6; and (3) The parties also agree that the DISTRICT may be required by applicable statutes or regulations to modify portions of the Project, as it is currently constituted, in order to meet public health and safety requirements or building code requirements that may exist at the time that the Project is constructed or in order to comply with requirements imposed by the Department of Health Services as part of its review and approval of the Exhibit 6 plans.

(b) The need for modification of the Project will be at the DISTRICT's sole discretion; provided, however, that the DISTRICT will inform WILLIAM MOORES of any proposed modification under Paragraph 6(a)(3) and the rationale for that modification. In the event that WILLIAM MOORES disputes the need for the proposed modification, he will be given an opportunity to be heard on the matter prior to the time that the Project, as modified, is constructed.

(c) Costs associated with the modifications described in Paragraph 6(a)(3) will be borne entirely by WILLIAM MOORES. Costs associated with the modifications described in Paragraphs 6(a)(1) and 6(a)(2) will be borne entirely by the DISTRICT.

PROVISION OF SERVICE BY THE DISTRICT

7. (a) Assuming compliance with all provisions of this Agreement, the DISTRICT agrees to provide a water supply to 54 hook ups, at a maximum rate of 500 gallons per day per residential unit, for lots which may be approved for development in Irish Beach Unit #9 and the Inn Site, if and when it receives all necessary permits and approvals for development. WILLIAM MOORES intends to seek the necessary permits to develop Irish Beach Unit #6 within the next thirty-six (36) months. If he obtains the necessary permits and approvals to develop Irish Beach Unit #6, WILLIAM MOORES will require 46 additional hook ups from the DISTRICT to serve Irish Beach Unit #6. The DISTRICT agrees that, during the 36 month period following execution of this Agreement,

it will retain sufficient capacity in the Project, as defined in the Exhibit 6 engineering plans, to provide service to 46 hook ups in Unit #6. After the expiration of this 36 month period, the DISTRICT may provide service to lots seeking to hook up to the DISTRICT's water system without regard to future requests to provide service to Unit #6.

(b) The DISTRICT further agrees to submit any required letters or documents to those governmental agencies which must issue the necessary permits for the development of Unit #9 and the Inn-Site so long as WILLIAM MOORES AND MOORES ASSOCIATES are in compliance with all provisions of this Agreement.

UNIT #9 DISTRIBUTION FACILITIES

8. (a) WILLIAM MOORES will provide the DISTRICT with a complete set of the engineering plans for the facilities necessary to distribute water to Unit #9. (These plans, as approved by the DISTRICT, are appended hereto as Exhibit 11.) These facilities include the No. 9 water storage tank, the distribution facilities within Unit #9 and the pumping station and transmission facilities from the No. 3 tank to the No. 9 water storage tank. The Exhibit 11 plans must provide for storage capacity of 125,000 gallons in the No. 9 water storage tank, when constructed, as required by Special Condition 1, California Coastal Commission Permit No. 1-87-141. The No. 9 water storage tank

shall be a partially buried, reinforced concrete tank with a cover that conforms to AWWA standards. The tank shall meet structural and installation conditions specified by the DISTRICT's engineer. In addition, in the event that the existing two-inch (2") P.V.C. transmission line from the Unit #3 tank through Unit #9 fails to pass pressure tests, visual inspection and State of California materials specifications for this type of installation, WILLIAM MOORES shall replace the two-inch (2") P.V.C. transmission line with an adequately sized and designed transmission line, as specified by the DISTRICT's engineer, which shall run from the Unit #3 tank to the Unit #9 facilities. WILLIAM MOORES agrees to provide the DISTRICT with the necessary easements for installation of the replacement transmission line, as shown on the Exhibit 11 plans, if the two-inch (2") P.V.C. transmission line must be replaced. The DISTRICT's engineer must approve the Exhibit 11 plans for provision of water services by the DISTRICT to Unit #9 before the commencement of any construction of these facilities.

(b) WILLIAM MOORES shall advance to the DISTRICT the funds necessary to pay the fees of the DISTRICT's engineer to review and approve the Exhibit 11 plans for the Unit #9 facilities and for providing an on-site inspection and testing of the as-built facilities. Reimbursement shall be on the basis of time actually spent on the specified tasks. This reimbursement is separate and distinct from the payment provisions required by Paragraph 4(j) and these

costs are in addition to the total Project cost specified in Paragraph 4(c).

(c) The security required by Paragraph 4(h) does not cover the cost of constructing the water storage tank and distribution system within Unit #9 as described herein. Instead, WILLIAM MOORES shall provide the DISTRICT with a performance bond for completion of the Unit #9 facilities, as described in detail in the Exhibit 11 plans. The performance bond shall be released only after the DISTRICT has completed its testing and inspection of the as-built facilities described in Exhibit 11 and is satisfied that the facilities are built according to the Exhibit 11 approved plans.

(d) WILLIAM MOORES shall provide the DISTRICT with a one (1)-year maintenance bond in the amount of ten percent (10%) of the construction cost of the Unit #9 facilities (Exhibit 11 hereto). The sole use of the maintenance bond shall be to correct defects in the installation of the Unit #9 facilities, according to the Exhibit 11 plans, and to correct defective materials; the bond is not to be applied to routine maintenance of the Unit #9 facilities. The bond shall be posted in a form acceptable to the DISTRICT prior to the release of the performance bond for completion of the Unit #9 facilities.

(e) Once the DISTRICT has approved the as-built Unit #9 facilities, WILLIAM MOORES shall convey to the DISTRICT lien free all of his rights, title and interest in the Exhibit 11 facilities.

STANDBY FEES

9. The DISTRICT agrees that for a fifteen (15) year period commencing with the date of execution of this Agreement, it will not assess or impose standby fees on any of the lots shown on the Final Map for Unit #9 unless and until such time as WILLIAM MOORES sells said lots.

TIMING OF THE PROJECT

10. At present, the DISTRICT does not plan to develop the Mallo Pass Creek Project for approximately fifteen years. However, the timing of the construction of the facilities described in Paragraph 3 above and in Exhibit 6 hereto will be at the sole discretion of the DISTRICT. Among the factors which may lead to the development of the Mallo Pass Creek Project prior to the expiration of the stated fifteen-year period are the status of the water rights under Permit No. 16622 and the ability of existing water sources to provide water necessary to meet the DISTRICT's water demands. The DISTRICT may determine, at its sole discretion, to construct additional facilities beyond those described in Exhibit 6, attached hereto, or it may determine to defer construction of portions of the facilities described in Exhibit 6.

ACCESS AND EASEMENTS

11. Upon the execution of this Agreement or within 30 days thereafter, WILLIAM MOORES shall provide the DISTRICT with a grant deed, executed by all necessary individuals, corporations or other legal entities, conveying to the DISTRICT all easements and rights-of-way that are necessary to permit the DISTRICT to construct, operate and maintain the Project facilities, described in Exhibit 6, the Unit #9 facilities, described in Exhibit 11, and the No. 9 well and appurtenances, as described in Exhibit 4. In addition, WILLIAM MOORES shall convey to the DISTRICT the fee simple title in the property on which the DISTRICT shall construct the filtration plant for the Mallo Pass Project, as shown on the Exhibit 6 drawings and documents. The recorded grant deed(s) conveying to the DISTRICT the necessary fee simple title, the easements and the rights-of-way are attached hereto as Exhibit 12.

12. The DISTRICT must have reasonable access to the Mallo Pass Creek point of diversion and to the No. 9 well. The engineering plans and drawings for the project, Exhibit 6 hereto, depict the necessary access, both vehicular and by foot, to the Mallo Pass Creek point of diversion. In addition, such access must include the access provided for in Paragraph 4 of that October 1986 Agreement between Mendocino Coast Properties, Gertrude J. Elder,

Moore's Associates, William M. Moore's, Tona E. Moore's, Gordon Moore's and Sandra Moore's, and Walter D. and Jane T. Stornetta, and Walter R. and Donna K. Stornetta. The DISTRICT will not provide the approvals necessary for WILLIAM MOORE'S to obtain either his final map from Mendocino County for the Unit #9 subdivision or Coastal Commission Permits No. 1-87-141 and No. 1-87-142 unless and until the California Department of Transportation ("CalTrans") issues an encroachment permit to the DISTRICT which explicitly permits the DISTRICT to construct a path on the east side of the CalTrans right of way to provide the DISTRICT with unlimited access to the Mallo Pass Creek point of diversion.

APPLICABLE STANDARDS

13. All design and construction for the transmission, storage, supply and distribution systems for the Mallo Pass Creek Project, the Unit #9 distribution facilities, and the No. 9 well shall meet any and all federal, American Water Works Association, State of California and DISTRICT standards. For determining usage, the standard of 500 gallons per day per single family unit will be used, or other approved standard requirements imposed by the California Department of Health Services.

DISTRICT APPROVAL OF PROJECT PLANS

14. All engineering drawings and plans for the Mallo Pass Creek Project (Exhibit 6), the engineering drawings or

sketch plans for the No. 9 well (Exhibit 4), and the engineering plans for the Unit #9 distribution facilities (Exhibit 11) are to be submitted to the DISTRICT for final approval before any construction is commenced.

MISCELLANEOUS PROVISIONS

15. This Agreement shall be recorded in the Official Records of the County of Mendocino, State of California, within thirty (30) days after the Agreement is fully executed and all required Exhibits have been attached. This recording is for the purpose of giving constructive notice of the rights and obligations hereunder assumed and imposed.

16. This Agreement is binding upon and shall inure to the benefit of all parties hereto, and upon and to each party's respective successors, heirs and assigns.

17. The parties to this Agreement have read and understand this Agreement and each of its terms. The parties to this Agreement mutually warrant and represent that this Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any party hereto. Each party to this Agreement acknowledges that it is fully aware of the contents of this Agreement and of its legal effect, and has obtained the advice of counsel to the extent such party deems necessary or desirable. This Agreement contains the sole and entire agreement and understanding of the parties with respect to the subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto

are hereby merged herein. No other agreements related to the subject matter hereof not specifically referred to herein, oral or otherwise, shall be deemed to exist to bind any of the parties hereto. Specifically, but not by way of limitation, the April 27, 1974 "Agreement for the Incremental Assignment of Water Rights" between MOORES ASSOCIATES and the DISTRICT and the April 12, 1975 "MOORES ASSOCIATES-IRISH BEACH WATER DISTRICT FINAL MAP AGREEMENTS, Units #5, 7 and 8" are null, void and of no force and effect. The DISTRICT does not intend by this Paragraph to revoke or invalidate its December 1, 1979 acceptance of the water system for Irish Beach Units 5, 7, and 8.

18. The parties agree to execute such additional documents and to take such further actions as may be necessary to carry out the provisions and intent of this Agreement.

19. The parties agree that the provisions of this Agreement shall be specifically enforceable by any of the parties hereto. Should any party hereto institute any action or proceeding for any judicial remedy or for foreclosure as authorized by Paragraph 4(h), the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including such amount as the court may adjudge to be reasonable attorneys' fees for the services rendered the party finally prevailing in any such action or proceeding.

20. Unless expressly indicated to the contrary, the obligations set forth in each and every section of this

Agreement are deemed to be independent covenants and not conditions, no matter how terminated or phrased.

21. If any term or provision of this Agreement, or the application thereof to any public agency, corporation or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to public agencies, corporations or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law and by this Agreement, as provided in Paragraph 19 above. This Agreement shall be construed in accordance with the laws of the State of California. In the event that this Agreement must be enforced by a court of law, the parties hereby agree that said action shall be tried by a court of the State of California.

22. The titles and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision herein.

23. This Agreement consists of 36 pages and of Exhibits 1-12, all of which Exhibits are incorporated herein by reference as though fully set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MOORES ASSOCIATES

IRISH BEACH WATER DISTRICT

By William M. Moors
WILLIAM M. MOORES
PARTNER

By Eugene Scaramella
EUGENE SCARAMELLA
DIRECTOR

By Gordon M. Moors
GORDON M. MOORES
PARTNER

By Charles Woodward
CHARLES WOODWARD
DIRECTOR

By Tona E. Moors
TONA E. MOORES
PARTNER

By Margorie Lubeck
MARGORIE LUBECK
DIRECTOR

By Sandra Moors
SANDRA MOORES
PARTNER

By Reuben Balzer
REUBEN BALZER
DIRECTOR

WILLIAM MOORES, individually

William Moors
WILLIAM MOORES

By Wilfred Edelbrock
WILFRED EDELBROCK
DIRECTOR

TONA MOORES, individually

Tona Moors
TONA MOORES

APPROVED AS TO FORM:
SHUTE, MIHALY & WEINBERGER

By Fran M. Layton
FRAN M. LAYTON

STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 1th day of July, 1988, before me Mary Shafer Danchuk, personally appeared WILLIAM M. MOORES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the partnership and acknowledged to me that the partnership executed it.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared GORDON M. MOORES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the partnership and acknowledged to me that the partnership executed it.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared TONA E. MOORES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the partnership and acknowledged to me that the partnership executed it.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
COUNTY OF Mendocino) SS.

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared SANDRA MOORES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the partnership and acknowledged to me that the partnership executed it.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
COUNTY OF Mendocino) SS.

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared WILLIAM M. MOORES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on his own behalf and acknowledged to me that he executed it.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
COUNTY OF Mendocino) SS.

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared TONA E. MOORES, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on her own behalf and acknowledged to me that she executed it.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared EUGENE SCARAMELLA, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the Irish Beach Water District, a Special District, and acknowledged to me that he executed it on behalf of the Irish Beach Water District.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared CHARLES WOODWARD, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the Irish Beach Water District, a Special District, and acknowledged to me that he executed it on behalf of the Irish Beach Water District.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared MARJORIE LUBECK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the Irish Beach Water District, a Special District, and acknowledged to me that she executed it on behalf of the Irish Beach Water District.

Mary Shafer Danchuk



STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)

On this 10th day of July, 1988, before me Mary Shafer Danchuk personally appeared REUBEN BALZER, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the Irish Beach Water District, a Special District, and acknowledged to me that he executed it on behalf of the Irish Beach Water District.

Mary Shafer Danchuk

STATE OF CALIFORNIA)
) SS.
COUNTY OF Mendocino)



On this 6th day of July, 1988, before me Mary Shafer Danchuk, personally appeared WILFRED EDELBROCK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person that executed this instrument, on behalf of the Irish Beach Water District, a Special District, and acknowledged to me that he executed it on behalf of the Irish Beach Water District.

Mary Shafer Danchuk

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THE FOLLOWING EXHIBITS MAY BE VIEWED AT THE IRISH BEACH
WATER DISTRICT OFFICE, 15401 FOREST VIEW DRIVE, MANCHESTER
CA.

EXHIBIT 4; SKETCH PLANS FOR NO. 9 WELL APPURTENANCES
EXHIBIT 5; MAP OF ACREAGE PARCELS
EXHIBIT 6; MALLO PASS CREEK PROJECT MAPS
EXHIBIT 10; LETTER AGREEMENT WITH WILLIAM MOORES
EXHIBIT 11; PLANS FOR UNIT 9 DISTRIBUTIONS FACILITIES

ASSIGNMENT OF WATER RIGHTS IN STATE WATER
RESOURCES CONTROL BOARD PERMIT NO. 16622

For good and valuable consideration, MOORES ASSOCIATES, a California partnership, hereby assigns to the IRISH BEACH WATER DISTRICT all of its rights, titles and interests, as Permittee, in State Water Resources Control Board Permit No. 16622. Permit No. 16622 authorizes the permittee to divert and use water in Mallo Pass Creek in Mendocino County for municipal purposes, subject to the specified conditions imposed by the State Water Resources Control Board.

Executed this 30th day of June, 1988, by MOORES ASSOCIATES.

MOORES ASSOCIATES

William M. Moores
WILLIAM M. MOORES
Partner

Gordon M. Moores
GORDON M. MOORES
Partner

EXHIBIT 1

BOOK 1764 PAGE 133

STATE OF CALIFORNIA
County of _____

On this _____ day of _____, in the year
1988 before me, the undersigned, a Notary Public
in and for said County and State, personally
appeared _____ personally
known to me (or proved to me on the basis of
satisfactory evidence) to be the person whose
name _____ subscribed
to this instrument and acknowledged that
_____ executed it.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA

County of Mendocino ss.
On June 30, 1988, before me,

Notary Public, in and for said State, personally appeared William M. Moore
Gordon M. Moore's proved to me on the basis of
satisfactory evidence to be all of the partners of the partnership that
executed the within instrument, and acknowledged to me that such partnership ex-
ecuted the same.

Linda Bliss
NOTARY PUBLIC

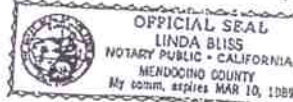


EXHIBIT 1

BOOK 1764 PAGE 134

ASSIGNMENT OF WATER RIGHTS IN WELL NO. 9

For good and valuable consideration, MOORES ASSOCIATES, a California partnership, and WILLIAM M. MOORES and TONA E. MOORES, husband and wife, hereby assign to the IRISH BEACH WATER DISTRICT all of their rights, titles and interests in that existing 276.5 foot well ("the No. 9 well") located as described below:

Commencing at a 3/4" re-bar tagged L.S. 3889 and being the Southeast corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino County Records; thence South 88° 49' 21" West, 60.00 feet; thence North 4° 43' 28" West, 30.00 feet; thence South 86° 19' 31" West, 178.67 feet; thence North 43° 24' 17" West, 254.97 feet to an existing well.

Executed this 30th day of June, 1988.

MOORES ASSOCIATES

William M. Moores
WILLIAM M. MOORES
Partner

Gordon M. Moores
GORDON M. MOORES
Partner

William M. Moores
WILLIAM M. MOORES,
individually

Tona E. Moores
TONA E. MOORES,
individually

EXHIBIT 2

BOOK 1764 PAGE 135

STATE OF CALIFORNIA
County of Mendocino

On this 30th day of June, in the year 1988 before me, the undersigned, a Notary Public in and for said County and State, personally appeared William M. Marks + Tom E. Marks personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument and acknowledged that they executed it.

WITNESS my hand and official seal.

Linda Bliss
Notary Public in and for said
County and State



STATE OF CALIFORNIA
County of Mendocino

On June 30, 1988, before me,
Linda Bliss

Notary Public, in and for said State, personally appeared William M. Marks + Gordon M. Marks, a all proved to me on the basis of satisfactory evidence to be all the partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.

Linda Bliss
NOTARY PUBLIC

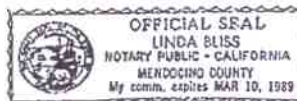


EXHIBIT 2

BOOK 1764 PAGE 136

DESCRIPTION OF THE NO. 9 WELL

The existing 275.5 foot well, referred to in that July 5, 1988 Water Development Agreement between William Moores, Tona Moores, Moores Associates and the Irish Beach Water District as "the No. 9 well," is the well described below:

Commencing at a 3/4" re-bar tagged L.S. 3889 and being the Southeast corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino County Records; thence South 88° 49' 21" West, 60.00 feet; thence North 4° 43' 28" West, 30.00 feet; thence South 86° 19' 31" West, 178.67 feet; thence North 43° 24' 17" West, 254.97 feet to an existing well.

EXHIBIT 3

BOOK 1764 PAGE 137

SAMPLE CALCULATION OF TARGET PROJECT COST
AND AMORTIZATION PAYMENT

<u>YEARS</u>	<u>PROJECT COST</u> ¹	<u>DEVELOPER PAYMENTS</u>
1988	\$180,000 ²	\$27,000 ⁴
1989	\$189,000	\$10,882 ⁵
1990	\$198,450	\$87,700 ⁵
1991	\$208,373	
1992	\$218,791	
1993	\$229,731	
1994	\$241,217	
1995	\$253,278	
1996	\$265,942	
1997	\$279,239	
1998	\$293,201	
1999	\$307,861	
2000	\$323,254	
2001	\$339,417	
2002	\$358,388	
2003	\$374,207 ³	

1 Inflated at 5% per year

2 "total Project cost"

3 "target Project cost"

4 "down payment" (15% of total Project cost)

5 "amortization payment" calculated with a CD rate of 7.8%

6 "outstanding indebtedness of the Project" on 2nd anniversary
of Agreement

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL TO

Name

Street Address

City & State

Order No.

Expire No.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

SHORT FORM DEED OF TRUST AND ASSIGNMENT OF RENTS

THIS DEED OF TRUST, made this _____ day of _____, 19____, between _____

herein called TRUSTOR,

whose address is _____ (number and street) _____ (city) _____ (state) _____ (zip)

Fidelity National Title Insurance Company of California, a corporation, herein called TRUSTEE, and _____

herein called BENEFICIARY,

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in _____ County, California, described as:

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph (10) of the provisions incorporated herein by reference to collect and apply such rents, issues and profits. [Insert Rider #2] [Insert Rider #1]

For the Purpose of Securing: 1. Performance of each agreement of Trustor incorporated by reference or contained herein. 2. Payment of the indebtedness evidenced by one promissory note of even date herewith, and any extension or renewal thereof, in the principal sum of \$ _____ (See Rider #3) executed by Trustor in favor of Beneficiary or order. 3. Payment of such further sums as the then record owner of said property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it is so secured.

To Protect the Security of This Deed of Trust, Trustor Agrees: By the execution and delivery of this Deed of Trust and the note secured hereby, that provisions (1) to (14), inclusive, of the illicious deed of trust recorded in Santa Barbara County and Sonoma County October 18, 1961, and in all other counties October 23, 1961, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, viz:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	435	884	Kings	782	833	Placer	895	301	Sierra	28	325
Alpine	1	250	Lake	262	39	Plumas	151	5	Siskiyou	468	181
Amador	184	348	Lassen	121	421	Riverside	2005	523	Solano	1105	182
Butte	1145	1	Los Angeles	72055	880	Sacramento	4321	82	Sonoma	1851	680
Calaveras	145	152	Madera	810	170	San Benito	271	382	Stanislaus	1715	458
Colusa	298	817	Marin	1506	309	San Bernardino	5567	81	Sutter	572	227
Contra Costa	3978	47	Mariposa	77	292	San Francisco	4322	905	Tahama	401	289
Del Norte	78	414	Merced	579	530	San Joaquin	2470	311	Trinity	93	308
El Dorado	568	458	Merced	1547	538	San Luis Obispo	1151	12	Tulare	2234	279
Fresno	4828	572	Modoc	184	851	San Mateo	4878	420	Tuolumne	135	47
Gleenn	422	184	Mono	52	428	San Mateo	1878	800	Ventura	2052	238
Humboldt	837	527	Monterey	2194	528	San Mateo	5328	341	Yolo	832	245
Imperial	1091	801	Napa	829	88	Santa Cruz	1421	494	Yuba	334	458
Inyo	147	598	Nevada	305	220	Shasta	884	528			
Kern	2427	50	Orange	5809	611	San Diego					

(which provisions, identical in all counties, are printed on the reverse hereof) hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length; that he will observe and perform said provisions; and that the references to property, obligations, and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

The undersigned Trustor requests that a copy of any Notice of Default and any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth.

**The provisions of this Deed of Trust are subject to Riders No. 1, 2 & 3, attached hereto and incorporated herein by reference.

(Individual Acknowledgment)

Signature of Trustor

STATE OF CALIFORNIA

County of _____

On this _____ day of _____, in the year 19____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____

_____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name _____ subscribed to this instrument and acknowledged that _____ executed it. WITNESS my hand and official seal.

Notary Public in and for said County and State.

(Notary Seal)

FD-218

Rider #1

, contained in Paragraph 4 of that certain WATER DEVELOPMENT AGREEMENT BETWEEN WILLIAM MOORES, TONA MOORES, MOORES ASSOCIATES AND THE IRISH BEACH WATER DISTRICT (the "Agreement") dated _____,

Rider #2

of Trustor as set forth in Paragraph 4 of the Agreement,

Rider #3

[calculate this amount to be the "total Project cost" (as defined in Paragraph 4(c) of the Agreement) as of the date of recordation of this Deed of Trust, less any down payment theretofore made]

The following is a copy of provisions (11) to (14), inclusive, of the fiduciary deed of trust, recorded in each county in California, as stated in the foregoing Deed of Trust and incorporated by reference in said Deed of Trust as being a part thereof as if a

To Protect the Security of This Deed of Trust, Trustor Agrees:

- (1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to remove or remove any building thereon; not to construct, suffer or permit any act upon said property in violation of law, to cultivate, harvest, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerated actions herein not excluding the general.
- (2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereon and in such order as Beneficiary may determine, or as portion of Beneficiary the entire amount so collected or any part thereof may be retained to Trustor. Such application or release shall not constitute any default of notice of default hereunder or invalidly any act done pursuant to such notice.
- (3) To appear in and defend any action or proceeding commencing to affect the security hereof or the rights or powers of Beneficiary as Trustor, and to pay all costs and expenses, including cost of title and attorney's fees in a reasonable form, in any such action or proceeding in which Beneficiary or Trustor may appear, and in any suit brought by Beneficiary to enforce this Deed.
- (4) To pay, at least ten days before delinquency, all taxes and assessments affecting said property, including assessments on amusement water stock; when due, all incumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto, all debts, fees and expenses of this Trust.
- (5) Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; acquire in and defend any action or proceeding commencing to affect the security hereof or the rights or powers of Beneficiary or Trustor; pay, purchase, collect or compromise any incumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in searching for such powers, pay necessary expenses, employ counsel and pay all reasonable fees.
- (6) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum amount provided by law at the time when said statement is demanded.
- (7) That any award of damages in satisfaction with any condemnation for public use of or injury to said property or any part thereof in hereto assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of sale or other insurance.
- (8) That by accepting interest of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default hereafter for failure to pay.
- (9) That all any time or from time to time, without liability herefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payments of the incumbrance secured hereby, Trustor may recover any part of said property, consent to the making of any map or plat thereof, join in granting any easement thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.
- (10) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustor for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be designated as "his person or persons legally entitled thereto." Five years after issuance of such full reconveyance, Trustee may destroy said note and this Deed unless directed in such reconveyance to retain them.
- (11) That as additional security, Trustor hereby gives and confers upon Beneficiary the right, power and authority, during the continuance of this Trust, to collect the rents, issues and profits of said property, existing under Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of the indebtedness for which the same are received, enter upon and take possession of said property or any part thereof, in his own name or for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less cost and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not constitute any default or notice of default hereunder or in a case any action hereunder on such notice.
- (12) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and a written notice of default and of election to cause to be sold said property, which notice Trustee shall cause to be filed for record. Beneficiary who shall deposit with Trustee this Deed, said note and all documents pertaining thereto in accordance with the provisions hereof.
- (13) After the time of such time as may then be required by law following the recording of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the same and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustor may purchase said lot or any portion of said property by public announcement at the time fixed by the preceding paragraph. Trustee shall deliver to such purchaser this Deed conveying the property so sold, but without any covenant, warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.
- (14) After deducting all costs, fees and expenses of Trustor and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums so expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof, all other sums then due and payable and the remainder, if any, to the person or persons legally entitled thereto.
- (15) Beneficiary, or any trustee or successor in any incumbrance secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said land is located, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all his title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.
- (16) That this Deed appoints to, invests in the benefit of, and binds all persons herein, such heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein, in this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.
- (17) That Trustor accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustor is not obligated to notify any person of pending sale under any deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustor.

DO NOT RECORD

REQUEST FOR FULL RECONVEYANCE

To be used only when note has been paid.

To Fidelity National Title Insurance Company of California, Trustee: Dated _____
The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured by said Deed of Trust have been fully paid and satisfied; and you are hereby requested and directed, on payment to you of any sums owing to you under the terms of said Deed of Trust, to cancel all evidences of indebtedness, secured by said Deed of Trust, delivered to you herewith together with said Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of said Deed of Trust, the estate now held by you under the same.

MAIL RECONVEYANCE TO:

By _____
By _____

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both must be delivered to the Trustee for cancellation before reconveyance will be made.

Short Form Deed of Trust



Fidelity National Title
INSURANCE COMPANY OF CALIFORNIA

AND WHEN RECORDED MAIL TO
 Name SHUTE, MINALEY, & Weinberger
 Street Address ATTN: Fran Layton
 396 Hayes Street
 City & State San Francisco, CA 94102
 Order No. 106152
 Escrow No.

3115
 RECORDED AT REQUEST OF
 FIDELITY NATIONAL TITLE INS. CO.
 BOOK 1736 PAGE 30
 FEB 27 10 31 AM '88
 OFFICIAL RECORDS
 MENDOCINO COUNTY CALIF
 HANSHA A. YOUNG
 RECORDER

SHOW FORM DEED OF TRUST AND ASSIGNMENT OF RENTS (DUE ON SALE CLAUSE)

THIS DEED OF TRUST, made this 5th day of July, 1988, between

WILLIAM H. MOORES and TONA ELIZABETH MOORES, his wife, herein called TRUSTOR,
 whose address is 3880 Sleepy Hollow Drive, Santa Rosa, CA 95404
 (number and street) (city) (state) (zip)
 Fidelity National Title Insurance Company of California, a corporation, herein called TRUSTEE, and
 IRISH BEACH WATER DISTRICT, herein called BENEFICIARY.

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE IN TRUST, WITH POWER OF SALE, that property in Mendocino County, California, described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF FOR LEGAL DESCRIPTION.
 SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF FOR RELEASE PROVISIONS.

In the event the herein described property or any part thereof, or any interest therein is sold, agreed to be sold, conveyed or alienated by the Trustor, or by the operation of law or otherwise, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, at the option of the holder hereof and without demand or notice shall immediately become due and payable.

TOGETHER WITH the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Beneficiary by paragraph (10) of the provisions incorporated herein by reference to collect and apply such rents, issues and profits.

- FOR THE PURPOSE OF SECURING:
1. Performance of each agreement of Trustor incorporated by reference or contained in Paragraph 4 of that certain WATER DEVELOPMENT AGREEMENT BETWEEN WILLIAM MOORES, TONA MOORES, MOORES ASSOCIATES AND THE IRISH BEACH WATER DISTRICT (the "Agreement") dated July 6, 1988;
 2. Payment of the indebtedness of TRUSTOR as set forth in paragraph 4 of the Agreement and any extension or renewal thereof in the principal sum of \$1,579,912.00 executed by Trustor in favor of Beneficiary or order;
 3. Payment of such further sums as the then record owner of said property hereafter may borrow from Beneficiary, when evidenced by another note (or notes) reciting it is so secured.

To Protect the Security of This Deed of Trust, Trustor Agrees: By the execution and delivery of this Deed of Trust and the note secured hereby, that provisions (1) to (14), inclusive, of the fictitious deed of trust recorded in Santa Barbara County and Sonoma County October 18, 1981, and in all other counties October 23, 1981, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, viz:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	425	884	Kings	792	823	Placer	895	201	Sierra	28	328
Alpine	1	250	Lake	302	78	Plumas	181	8	Stanislaus	488	181
Amador	104	348	Lassen	171	471	Sierraville	3005	623	Sutter	1105	182
Butte	1145	1	Los Angeles	72055	899	Sacramento	4231	13	Sonoma	1851	628
Calaveras	145	132	Madera	810	170	San Benito	971	362	Stanislaus	1715	496
Colusa	298	617	Marin	1508	229	San Bernardino	5587	81	Sutter	572	287
Contra Costa	2418	47	Mariposa	77	292	San Francisco	A232	905	Tehama	401	289
Del Norte	78	414	Mendocino	878	530	San Joaquin	2470	211	Trinity	83	368
El Dorado	588	458	Merced	1547	528	San Luis Obispo	1131	32	Tulare	2294	278
Fresno	4526	572	Modoc	184	851	San Mateo	4078	429	Tuolumne	125	47
Gleason	422	184	Monrovia	32	423	Santa Barbara	157	240	Ventura	2092	386
Humboldt	857	527	Monterey	1184	528	Santa Clara	5328	341	Yolo	652	245
Imperial	1091	501	Napa	828	88	Santa Cruz	1421	494	Yuba	254	486
Inyo	147	598	Nevada	305	270	Shasta	684	828			
Kern	3427	90	Oranges	5885	611	San Diego					

(which provisions, identical in all counties, are printed on the reverse hereof) hereby are adopted and incorporated herein and made a part hereof as fully as though set forth herein at length that he will observe and perform said provisions; and that the references to property, obligations, and parties in said provisions shall be construed to refer to the property, obligations, and parties set forth in this Deed of Trust.

The undersigned Trustor requests that a copy of any Notice of Default and any Notice of Sale hereunder be mailed to him at his address hereinbefore set forth.

(Individual Acknowledgment)
 STATE OF CALIFORNIA
 County of Mendocino
 On this 5th day of July, 1988, before me, the undersigned a Notary Public in and for said County and State, personally appeared William H. Moore and Tona Elizabeth Moore 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 this instrument and acknowledged that they executed it for the purposes and consideration therein expressed.
 My commission expires 11/11/88
 LINDA BLISS
 Notary Public in and for said County and State

Signature of Trustor
 William Moore 7-6/88
 WILLIAM H. MOORES
 Tona Elizabeth Moore 7/6/88
 TONA ELIZABETH MOORES



EXHIBIT 9

EXHIBIT "A"

That certain real property situated in the County of Mendocino, State of California, described as follows:

The Southwest quarter of the Southeast quarter, the East 1585.15 feet of the South half of the Southwest quarter, all that portion of the North half of the Southwest quarter described as follows: COMMENCING at a 1/2 inch iron pipe tagged LS 3089 located at the North-easterly corner of Lot 31, Mendocino Coast Subdivision Unit #3, recorded in Map Case 2, Drawer 8, Page 29, Mendocino County Records; thence South 89°15'20" East 129.39 feet to the true point of beginning; thence North 44°58'38" East 316.76 feet; thence along the arc of a tangent curve to the right, having a radius of 155 feet, through a central angle of 115°26'49", a length of 312.31 feet; thence South 19°34'33" East 110.31 feet; thence South 16°36'25" East 72.52 feet to a point on the South line of the Northeast quarter of the Southwest quarter of said Section 31; thence North 89°15'20" West along said line 537.31 feet to the true point of beginning. The bearings used in this description are based upon the California State Coordinate System, Zone II. All being within Section 31, Township 14 North, Range 16 West, Mount Diablo Base and Meridian.

GENERAL ACKNOWLEDGMENT

CAL-23

State of California }
County of Mendocino } SS.

On this the 6th day of July 1988 before me,
Mary Shafer Danchuk
the undersigned Notary Public, personally appeared

Tona Elizabeth Hoopes & William Moore

personally known to me
 proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) are subscribed to the
within instrument, and acknowledged that they executed it.
WITNESS my hand and official seal.



Mary Shafer Danchuk
Notary's Signature

EXHIBIT "B"

Upon recordation of the final map of Unit #9, Mendocino Coast Subdivision, Beneficiary agrees to provide for the release of the lien of this Deed of Trust from each lot in said Unit #9, provided that (i) WILLIAM MOORES is not then in default with respect to any of his obligations under Paragraph 4 (h) of the Water Development Agreement with Beneficiary dated July 6, 1989 of his obligation to make any payments to the District; and (ii) prior to such partial release, WILLIAM MOORES deposits the unit lot amount therefor into the Mallo Pass Fund. As used herein, the term "unit lot amount" means twice the total Project cost as defined in Paragraph 4(c) of said Agreement, divided by the number of lots shown on the Final Map for unit #9. The DISTRICT shall release the lien of the Deed of Trust on all encumbered lots at any time upon (i) WILLIAM MOORES deposit into the Mallo Pass Fund of the full amount of the outstanding indebtedness of the Project (as defined in Paragraph 4(f) of said Agreement) of (ii) upon WILLIAM MOORES provision of a letter of credit meeting the requirements of subparagraph (5) of said Agreement. William Moores shall pay all costs associated with the preparation, execution, delivery and recordation of the lien releases provided for herein. Payment by WILLIAM MOORES of the costs specified herein is in addition to the total Project costs described in Paragraph 4(c) of said Agreement.

BOOK 1764 PAGE 144

~~BOOK 1736~~ PAGE 32
EXHIBIT 9

3115

RECORDING REQUESTED BY

MAIL TAX STATEMENT TO
Same as below
WHEN RECORDED MAIL TO

Name Fran M. Layton
Street Address Shute, Mihaly & Weinberger
City & State 396 Hayes Street
San Francisco, CA 94102

\$20.00 PAID
PGO FILED
<input checked="" type="checkbox"/> Exempt

11632

RECORDED AT REQUEST OF
FIDELITY NATIONAL TITLE INS. CO.
BOOK 1697 PAGE 412
JUL 20 10 30 AM '88

OFFICIAL RECORDS
MENDOCINO COUNTY CALIF
HAISHA A. YOUNG
RECORDER

no fee 4P

SPACE ABOVE RECORDER'S USE ONLY

ORDER NO.

ESCHOW NO. 106192

GRANT DEED (INDIVIDUAL)

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ 0

Easement

- Computed on full value of property conveyed, or
 - Computed on full value less value of liens and encumbrances remaining at time of sale.
 - Unincorporated area () City of _____
- Tax Parcel No. _____

WILLIAM H. MOORES and TONA ELIZABETH MOORES, his wife

FOR A VALUABLE CONSIDERATION, HEREBY GRANT TO

IRISH BRACH WATER DISTRICT

the real property in the County of Mendocino, State of California, described as:

SEE DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF:

Dated _____
William H. Moores
WILLIAM H. MOORES
Tona Elizabeth Moores
TONA ELIZABETH MOORES

(Individual Acknowledgment)

STATE OF CALIFORNIA
County of Mendocino

On this 5th day of July in the year 1988, before me, the undersigned, a Notary Public in and for said County and State, personally appeared William M. Moores and Tona Elizabeth Moores

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to this instrument and acknowledged that they executed it

WITNESS my hand and official seal
Linda Bliss
Notary Public in and for said County and State.



(Notary Seal)

MAIL TAX STATEMENT AS DIRECTED ABOVE

FD138

Exhibit 12

BOOK 1764 PAGE 145

SODERBERG TANK SITE, WELL, AND PIPELINE EASEMENT

A 60' Tank Site and water system appurtenances Easement lying within Section 32, Township 14 North, Range 16 West, M.D.B. & M. and being more particularly described as follows:

Beginning at a 3/4" rebar tagged LS3889 and being the Southeast corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino County Records; thence North 4° 43' 28" East along the easterly line of said Parcel 2, 60.00 feet; thence South 88° 49' 21" West, 60.00 feet; thence South 4° 43' 28" West, 60.00 feet to the southerly line of said parcel; thence along said line North 88° 49' 21" East 60.00 feet to the point of beginning, together with a 1 foot wide non-access strip along the easterly boundary of said tank site and a 14' road access and water system appurtenances and 30' diameter well easement lying within Section 32, Township 14 North, Range 16 West, M.D.B. & M. and being more particularly described as follows:

Commencing at a 3/4" rebar tagged LS3889 and being the Southeast corner of Parcel 2 as recorded in Case 2, Drawer 27, Page 41, Mendocino County Records; thence South 88° 49' 21" West, 60.00 feet; thence North 4° 43' 28" West, 30.00 feet to the point of beginning of the easement to be herein described and lying equally left and right of the following line; thence South 86° 19' 31" West, 178.67 Feet; thence North 43° 24' 17" West, 254.97 feet to an existing well; thence South 47° 46' 12" West 229.70 feet, more or less, to an existing road as shown per said parcel map and a 30' diameter well easement around the well referred to above, together with all water in said well and the right to extract said water.

BOOK 1697 PAGE 413

EXHIBIT 12

BOOK 1764 PAGE 146

CERTIFICATE OF ACCEPTANCE

BY RESOLUTION NO. 1988-3, adopted July 6, 1988, the Board of Directors of the IRISH BEACH WATER DISTRICT accepted this property, described in that July 5, 1988 Grant Deed from WILLIAM M. MOORES and TONA ELIZABETH MOORES, his wife, to IRISH BEACH WATER DISTRICT, on behalf of the IRISH BEACH WATER DISTRICT.

DATED: July 17, 1988

Reuben Balter
REUBEN BALTER, President
IRISH BEACH WATER DISTRICT

~~BOOK 1697 PAGE 415~~

EXHIBIT 12

~~11832~~
BOOK 1764 PAGE 148

RECORDING REQUESTED BY

MAIL TAX STATEMENT TO
same as below
WHEN RECORDED MAIL TO

1639

RECORDERS NATIONAL TITLE INS. CO.

BOOK 1697 PAGE 416

JUL 20 10 30 AM '88

OFFICIAL RECORDS
MENDOCINO COUNTY CALIF
MARSHA A. YOUNG
RECORDER

Name Fran M. Layton
Street Address Shute, Mihaly & Weinberger
City & State 396 Hayes Street
San Francisco, CA 94102

*no fee
3P*

SPACE ABOVE RECORDER'S USE ONLY

ORDER NO.

ESCROW NO. *106182*

GRANT DEED (INDIVIDUAL)

The undersigned grantor(s) declare(s):

- Documentary transfer tax is \$ *0*
- Computed on full value of property conveyed, or
- Computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area () City of _____
Tax Parcel No. _____

Easement

<input type="checkbox"/>	\$20.00 PAID
<input type="checkbox"/>	PCO FILED
<input checked="" type="checkbox"/>	Exempt

GORDON MOORES and SANDY MOORES, his wife; WILLIAM M. MOORES and TONA ELIZABETH MOORES, his wife; and MENDOCINO COAST PROPERTIES, a California corporation and MOORES ASSOCIATES, a partnership

FOR A VALUABLE CONSIDERATION, I HEREBY GRANT TO

IRISH BEACH WATER DISTRICT

the real property in the County of MENDOCINO, State of California, described as:

A fee simple estate in the following described land:

SEE DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Grantee, by acceptance of this Deed covenants and agrees to use the lands described herein only for a water treatment plant and any related water treatment facilities, pipelines, filters, pumps and buildings housing such facilities.

Dated _____

Gordon Moore _____ *Sandy Moore* _____
GORDON MOORES SANDY MOORES
William M. Moore Tona Elizabeth Moore
WILLIAM M. MOORES TONA ELIZABETH MOORES
Gordon Moore President
MENDOCINO COAST PROPERTIES Gordon Moore Pres.
By: *William James G. Gordon Moore*
MOORES ASSOCIATES William Moore & Gordon Moore

(Individual Acknowledgment)

STATE OF CALIFORNIA
County of Mendocino

On this 5th day of July, in the year 1988, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Gordon Moore, Sandy Moore, William M. Moore and Tona Elizabeth Moore personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to this instrument and acknowledged that they executed it.

WITNESS my hand and official seal
Linda Bliss
Notary Public in and for said County and State



(Notary Seal)

MAIL TAX STATEMENT AS DIRECTED ABOVE

EXHIBIT 12

BOOK 1764 PAGE 149

CR 38

WATER PLANT SITE

COMMENCING at the Southeast corner of Lot 61 as numbered and designated on the map entitled "Unit 2, Mendocino Coast Subdivision", recorded July 27, 1966 in Map Case 2, Drawer 6, Page 8, Mendocino County Records; thence South 05° 53' 46" East, 51.02 feet to a 1/2 inch pipe tagged LS3089; thence North 72° 35' 41" East, 280.00 feet; thence North 17° 24' 19" West, 50 feet to the point of beginning of this parcel .; thence continuing North 17° 24' 19" West, 100 feet; thence South 72° 35' 41" West; 130 feet thence South 17° 24' 19" East, 100 feet; thence North 72° 35' 41" East, 130 feet to the point of beginning.

STATE OF CALIFORNIA }
 COUNTY OF Mendocino } ss.

On this 5th day of July, in the year 1988, before me, the undersigned, a Notary Public in and for said State, personally appeared Gordon Moores and _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as _____ President and _____ Secretary, respectively, of the Corporation therein named, and acknowledged to me that the Corporation executed it pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal Linda Bliss
 Notary Public in and for said State.

ACKNOWLEDGMENT - Corp - Pres & Sec - Notary Form 222CA - Rev. 11-83
 ©1983 WOLCOTT, INC. (SPICE CASE 67)

STATE OF CALIFORNIA }
 County of Mendocino } ss.

On July 5, 1988 before me, the undersigned, a Notary Public in and for said State, personally appeared Gordon Moores and William M. Moores, personally known to me or proved to me on the basis of satisfactory evidence to be the persons that executed this instrument on behalf of the partnership and acknowledged to me that the partnership executed it.

Linda Bliss
 NOTARY PUBLIC

ACKNOWLEDGMENT - PARTNERSHIP
 NET FORM NO. 22 - 1/83



BOOK 1764 PAGE 150

EXHIBIT 17

1697 PAGE 417

CERTIFICATE OF ACCEPTANCE

BY RESOLUTION NO. 1988-3, adopted July 6, 1988, the Board of Directors of the IRISH BEACH WATER DISTRICT accepted this property, described in that July 5, 1988 Grant Deed from GORDON MOORES and SANDY MOORES, his wife, WILLIAM M. MOORES and TONA ELIZABETH MOORES, his wife, and MENDOCINO COAST PROPERTIES, a California corporation and MOORES ASSOCIATES, a partnership, to IRISH BEACH WATER DISTRICT, on behalf of the IRISH BEACH WATER DISTRICT.

DATED: July 17, 1988

Reuben Balzer
REUBEN BALZER, President
IRISH BEACH WATER DISTRICT

~~BOOK 1697 PAGE 418~~

BOOK 1764 PAGE 151

EXHIBIT D

~~11633~~

RECORDING REQUESTED BY
MAIL TAX STATEMENT TO
same as below
WHEN RECORDED MAIL TO

1'634
RECORDED AT REQUEST OF
FIDELITY NATIONAL TITLE INS. CO.
BOOK 1697 PAGE 419
JUL 20 10 30 AM '88
OFFICIAL RECORDS
MENDOCINO COUNTY CALIF
MARSHIA A. YOUNG
RECORDER

Name: Fran M. Layton
Street Address: Shute, Mihaly & Weinberger
396 Hayes Street
City & State: San Francisco, CA 94102

SPACE ABOVE RECORDER'S USE ONLY

no fee SP

ORDER NO.
ESCROW NO. 106152

GRANT DEED (INDIVIDUAL)

The undersigned grantor(s) declare(s):
Documentary transfer tax is \$ 0 *Easement*
() Computed on full value of property conveyed, or
() Computed on full value less value of liens and encumbrances remaining at time of sale.
() Unincorporated area () City of _____
Tax Parcel No. _____

\$20.00
PAID
PCO
FILED
<input checked="" type="checkbox"/> Exempt

GORDON MOORES and SANDY MOORES, his wife; WILLIAM H. MOORES and TONA ELIZABETH MOORES, his wife; and MENDOCINO COAST PROPERTIES, a California corporation

FOR A VALUABLE CONSIDERATION, HEREBY GRANT TO
IRISH BEACH WATER DISTRICT

the real property in the County of Mendocino, State of California, described as:
SEE DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated _____
Gordon Moores *Sandy Moores*
GORDON MOORES SANDY MOORES
William H. Moores *Tona Elizabeth Moores*
WILLIAM H. MOORES TONA ELIZABETH MOORES
Gordon Moores
MENDOCINO COAST PROPERTIES Gordon Moores
President

STATE OF CALIFORNIA
County of Mendocino

On this 5th day of July in the year 19 88 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Gordon Moores, Sandy Moores, William M. Moores, Tona Elizabeth Moores personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names are subscribed to this instrument and acknowledged that they executed it


WITNESS my hand and official seal,
Linda Bliss
Notary Public in and for said County and State



(Notary Seal)

ROAD B AND MARTIN WATERLINE

A non-exclusive easement for the installation, maintenance and use of an underground waterline easement over that portion of Road B of that certain Declaration recorded August 12, 1977 in Book 1104, Official Records, Page 4.

STATE OF CALIFORNIA	
COUNTY OF <u>Mendocino</u>	} ss.
	On this <u>5th</u> day of <u>July</u> in the year 19 <u>88</u> before me, the undersigned, a Notary Public in and for said State, personally appeared <u>Gordon Moore</u> and _____ _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed the within instrument as _____ President and _____ Secretary, respectively, of the Corporation therein named, and acknowledged to me that the Corporation executed it pursuant to its by-laws or a resolution of its board of directors.
<small>ACKNOWLEDGMENT - Corp. - Pres. & Sec. - Notary Form 227CA - Rev. 11-83 © 1983 W.S. COWEN, INC. (Price \$1.00 & 3)</small>	WITNESS my hand and official seal. <u>Linda Bliss</u> Notary Public in and for said State.

BOOK ~~1697~~ PAGE 420
EXHIBIT 12

BOOK 1764 PAGE 153

Non-exclusive easements for road access and water system facilities and appurtenances over the following described parcels:

PARCEL 1

TANK ACCESS AND WATERLINE EASEMENT - ROAD A

A non-exclusive easement 60' in width over those parcels described as Road A Section 1, Road A Section 2, Road B and Road C in Exhibit C of that certain Declaration of Covenants and Restrictions executed by Mendocino Coast Properties, a California corporation and Moores Associates, a partnership, recorded August 12, 1977 in Book 1104, Official Records, Page 4, Mendocino County Records, excluding any portions thereof lying within the lands of Deanne Harrison in Section 32, Township 14 North, Range 16 West and Dave Martin in Section 31, Township 14 North, Range 16 West; and further excluding therefrom any portion thereof which lies within the lands described in the Quitclaim Deed executed by William M. Moores, et ux to William M. Moores, et ux, recorded April 22, 1988 in Book 1681 Official Records, Page 297, Mendocino County.

PARCEL 2

ACCESS EASEMENT - AQUISTAPACE ROAD EXTENSION

BEGINNING at the Southeast corner of Lot 61 as numbered and designated on the map entitled "Unit 2, Mendocino Coast Subdivision", recorded July 27, 1966 in Map Case 2, Drawer 6, Page 8, Mendocino County Records; thence South 05° 53' 46" East, 51.02 feet to a 1/2 inch pipe tagged LS3089; thence North 72° 35' 41" East, 280.00 feet; thence North 17° 24' 19" West, 50 feet; thence South 72° 35' 41" West, 269.82 feet to the point of beginning.

PARCEL 3

UNIT 9 EASEMENTS

A non-exclusive easement for the installation, maintenance and use of underground waterlines over the strips of land designated "Public Utility Easement" on the map of Unit 9, Mendocino Coast Subdivision.

PARCEL 4

WATER MAIN- PLANT SITE TO HIGHWAY 1

A. Commencing at the Southeast corner of Lot 61 as numbered and designated on the map entitled "Unit 2, Mendocino Coast Subdivision", recorded July 27, 1966 in Map Case 2, Drawer 6, Page 8, Mendocino County Records; thence South 05° 53' 46" East, 51.02 feet to a 1/2 inch pipe tagged LS3089; thence North 72° 35' 41" East, 280.00 feet; thence North 17° 24' 19" West, 150 feet to the point of beginning of this easement; thence continuing North 17° 24' 19" West, 230.21 feet; thence Westerly, 10 feet; thence South 17° 24' 19" East, 230 feet more or less to the North line of an easement for Water Plant Site, thence Easterly along said North line of an easement for water plant site, 10 feet to the point of beginning

- B. Beginning at the Northerly terminus of the course, "North 17° 24' 19" West, 230.21 feet referred to in Easement A above; thence Southwesterly to a point which bears 10 feet Northerly from the Northeast corner of Lot 58 of Unit 2, Mendocino Coast Subdivision as referred to above; thence Southerly 10 feet to said Northeast corner; thence Northeasterly to a point which bears South 17° 24' 19" East, 10 feet from the point of beginning; thence North 17° 24' 19" West, 10 feet to the point of beginning.
- C. Beginning at the Northeast corner of Lot 58 of Unit 2, Mendocino Coast Subdivision as referred to above; thence South 73° 04' 51" West, along the North line of said Unit 2, 765.14 feet to the East line of State Highway 1; thence Northerly along said East line to the South line of the lands described in the Deed executed by John J. Acquistapace, et al to the State of California recorded July 24, 1963 in Book 633, Official Records, Page 232; thence Easterly, along said South line, 10 feet; thence Southerly parallel to and Easterly 10 feet from Highway 1 to a point which lies 10 feet Northerly from the North line of the above referred to Unit 2 of Mendocino Coast Subdivision; thence North 73° 04' 51" East along a line which lies 10 feet Northerly of the North line of said Unit 2 to a point which bears Southerly 10 feet from the point of beginning; thence Northerly, 10 feet to the point of beginning.

CERTIFICATE OF ACCEPTANCE

BY RESOLUTION NO. 1988-3, adopted July 6, 1988, the Board of Directors of the IRISH BEACH WATER DISTRICT accepted this property, described in that July 5, 1988 Grant Deed from GORDON MOORES and SANDY MOORES, his wife, WILLIAM M. MOORES and TONA ELIZABETH MOORES, his wife, and MENDOCINO COAST PROPERTIES, a California corporation, to IRISH BEACH WATER DISTRICT, on behalf of the IRISH BEACH WATER DISTRICT.

DATED: July 17, 1988

Ruben Balzer
RUBEN BALZER, President
IRISH BEACH WATER DISTRICT

~~BOOK 1697 PAGE 423~~

EXHIBIT 12

12589
~~11634~~
BOOK 1764 PAGE 156

EXHIBIT "D"

26098

RECORDING REQUESTED BY

MAIL TAX STATEMENTS TO
SAME AS BELOW

RECORDED AT REQUEST OF
FIDELITY NATIONAL TITLE INS. CO.

BOOK 1879 PAGE 238
90 DEC 28 AM 10:02

WHERE RECORDED MAIL TO

IRISH BEACH WATER DIST
P.O. BOX 67
MANCHESTER, CA 95459

OFFICIAL RECORDS
MENDOCINO COUNTY CLERK
MARSHA A. YOUNG
RECORDER

\$30.00
PAID
PCO
FILED
EXCEPT

ORDER NO. 106152
SECTION NO.

STICK ABOVE RECORDER'S USE ONLY

GRANT DEED (INDIVIDUAL)

The undersigned grantor(s) declare(s):
Documentary transfer tax is \$ NONE
() Computed on full value of property conveyed, or
() Computed on full value less value of liens and encumbrances existing at time of sale.
() Unincorporated area () City of _____
The Parcel No. _____

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

WILLIAM M. MOORES AND TONA E. MOORES, his wife

hereby GRANT(S) to

IRISH BEACH WATER DISTRICT

the following described real property in the
County of Mendocino

State of California:

PARCEL 1:

All those improvement facilities for the No. 9 well, located on those easements recorded on July 20, 1988 in Book 1697 of Official Records, Pages 412-415, including, but not limited to, a 10,000 gallon water tank, as shown in Exhibit 4 of the Irish Beach Well Project Plans, now on file in the Mendocino County Public Works Department, and also shown as Exhibit 4 to the July 6, 1988 Water Development Agreement between William Moores, et al and the Irish Beach Water District, recorded July 19, 1989 in Book 1764 of Official Records, Page 92.

Grantor herein warrants that the above facilities are lien free at the date hereof and that grantor shall, within thirty (30) days, remove any liens imposed hereafter that are attributable to the actions or inactions of grantor.

SEE RESOLUTION ATTACHED

Dated September 5, 1990

William M. Moores
William M. Moores

Tona E. Moores
Tona E. Moores

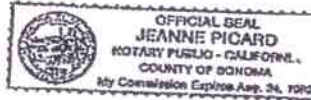
STATE OF CALIFORNIA
County of Sonoma

On this 7th day of September, 1990, before me, the undersigned, a Notary Public in and for said County and State, personally appeared William M. Moores and Tona E. Moores

known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

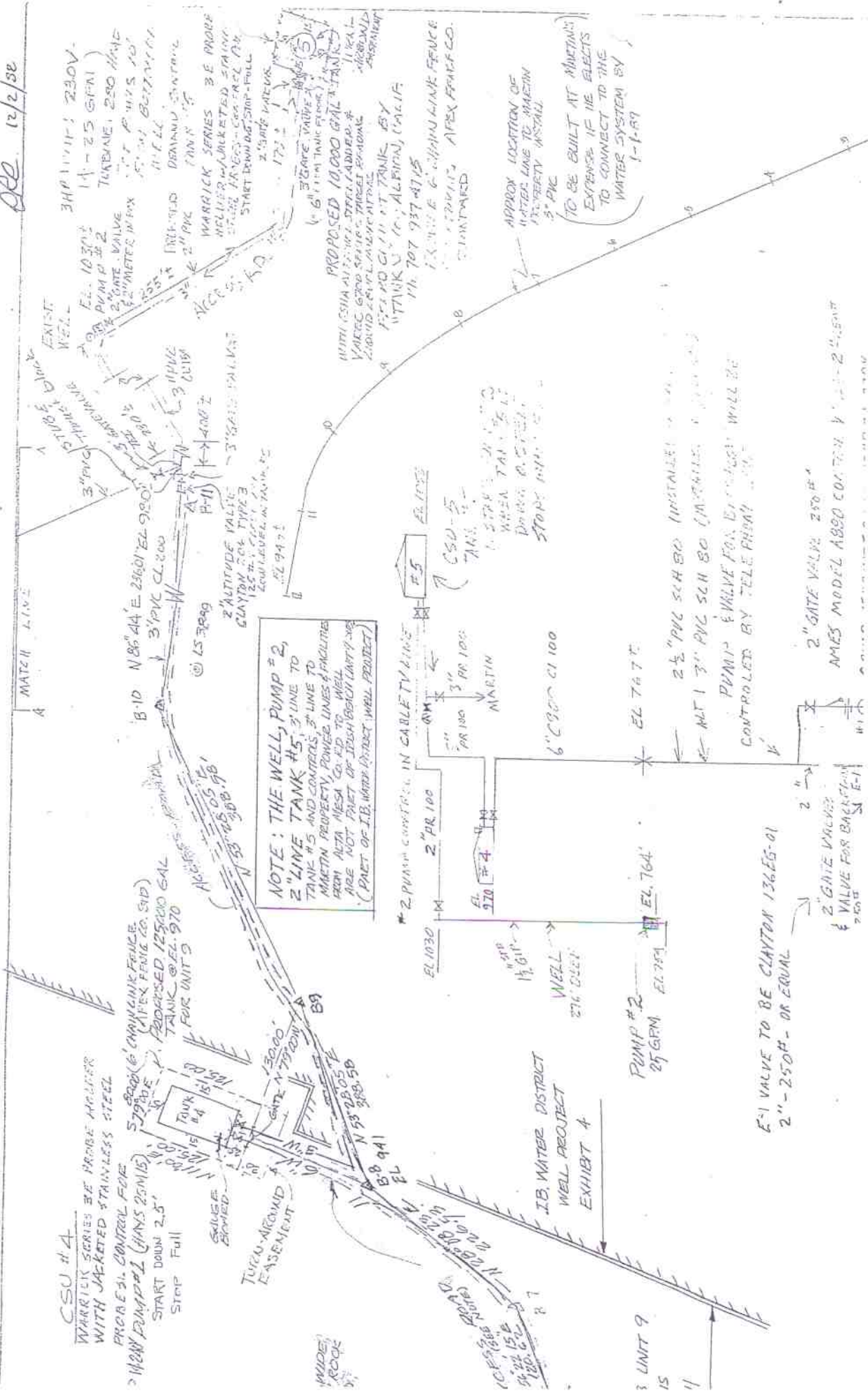
Jeanne Picard
Notary Public in and for said County and State.



(Notary Seal)

EXHIBIT "E"

DATE 12/2/82



CSU #4
 WARRICK SERIES BE PROBE HADDER
 WITH JACKETS STAINLESS STEEL
 PROJECT CONTROL FOR
 PUMP #2 (HANS 25M15)
 START DOWN 2.5"
 STOP Full

8000' CHAIN LINK FENCE
 (APEX FENCE CO. SUP)
 PROPOSED 125,000 GAL
 TANK @ EL. 970
 FOR UNIT 9

NOTE: THE WELL, PUMP #2,
 2" LINE TANK #5, 3" LINE TO
 TANK #5 AND CONDUITS, 3" LINE TO
 MARTIN PROPERTY, POWER LINES & PIGTAILS
 FROM ALTA MESA CO. LD TO WELL
 ARE NOT PART OF IB WATER DISTRICT WELL PROJECT
 (PART OF IB WATER DISTRICT WELL PROJECT)

* 2 PUMP CONTROL IN CABLE TV LINE
 2" PR 100
 3" PR 100
 MARTIN
 EL 710
 EL 710
 EL 764
 EL 759
 EL 764
 EL 747

IB WATER DISTRICT
 WELL PROJECT
 EXHIBIT 4

PUMP #2
 25 GPM
 EL 759

E-1 VALVE TO BE CLAYTON 136EG-01
 2" - 250H - OR EQUAL

2" GATE VALVE
 & VALVE FOR BACKFLOW
 E-1

2 1/2" PVC SCH 80 (INSTALLED)
 3" PVC SCH 80 (INSTALLED)
 PUMP & VALVE FOR EXHIBIT WILL BE
 CONTROLLED BY TELEPHONE

2" GATE VALVE 250H
 AMIES MODEL A880 COST \$4,200 - 2 GATES

EXIST
 WELL

EL. 1030
 PUMP #2
 2" GATE VALVE
 1/2" METER IN BOX

3" PVC STORAGE TANK
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EXHIBIT "F"

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims ("Agreement") will use the following defined terms:

- A. "Action" shall mean Mendocino County Superior Court Case No. SCUJ-CVG-0083930, entitled, William M. Moores & Tona E. Moores v. Irish Beach Water District, a California Water District and DOES 1029, inclusive.
- B. "Plaintiffs" shall mean William M. Moores and Tona E. Moores, the plaintiffs in the Action.
- C. "Defendant" or "District" shall mean the Irish Beach Water District, a California Water District organized and operating under the California Water Code and a special District organized under the laws of the State of California, the defendant in the Action.
- D. "Parties" shall mean the Plaintiffs and the Defendant.
- E. The "1992 Litigation" shall mean Mendocino County Superior Court Case No. CV-66212, entitled Plaintiffs William and Tona Moores v. Irish Beach Water District, Board of Directors of Irish Beach Water District and DCES 1-10, filed on December 10, 1992.
- F. The "1974 Permit" means the water permit no. 16622 issued by the State Water Resources Control Board as amended for Mallo Pass Creek.
- G. The "1988 WDA" means the Water Development Agreement executed by Plaintiffs and Defendant on July 5, 1988 as recorded in the Official Records of Mendocino County in Book No. 1764, Page 92.
- H. The "1995 SA" means the Settlement Agreement executed by plaintiffs on March 3, 1996 and by the District on March 11, 1995.

I. RECITALS

WHEREAS, Plaintiffs William and Tona Moores filed the Action against the District, seeking, *inter alia*, causes of action for Quiet Title to "service water rights" and Declaratory Relief as to those "service water rights," as well as Declaratory Relief as to the construction of certain water facilities as set forth in Plaintiffs' Verified Complaint to Quiet Title and for Declaratory Relief filed on July 31, 2000;

WHEREAS, the District has answered plaintiffs' complaint generally denying each of the causes of action and setting forth several affirmative defenses as set forth in the District's answer to complaint filed October 10, 2000;

WHEREAS, the Parties sought to adjudicate the Action by mediation;

WHEREAS, the Parties submitted the Action to mediation before the Hon. William L. Bettinelli, (Ret.) of JAMS, Santa Rosa on December 17, 2001;

WHEREAS, the Parties entered into a Stipulation for Settlement, which is attached as Exhibit A hereto and incorporated as though fully set forth herein;

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

A. Consideration

II. THE AGREEMENT

1. Upon execution of this Agreement and Release, as set forth herein, the District shall release the entire proceeds of the Mallo Pass Trust Funds which were deposited by the Plaintiffs for the Mallo Pass Creek facility, which is currently in deposit at (1) UBS Paine Webber, 1000 Harbor Blvd., Weehawken, NC, 07087-6790, Account No. CG 31932-95, in the name of Irish Beach Water District and (2) Edward Jones, Inc., 367 North State Street, Suite 106, Ukiah, CA 95482, Account No. CG 31932-95, which amounts include the original funds deposited by Plaintiffs plus accrued interest. Payment shall occur as soon as reasonably possible.
2. The Parties hereby mutually rescind and forever extinguish all obligations, requirements, covenants and conditions between them that survive in the 1988 WDA. The Parties agree that the effect of this rescission and extinguishments is as if the 1988 WDA never existed as to the Parties.
3. The Parties hereby mutually rescind and forever extinguish all obligations, requirements, covenants and conditions between them that survive in the 1995 SA. The Parties agree that the effect of this rescission and extinguishments is as if the 1995 SA never existed as to the Parties.
4. The District shall provide the equivalent of ten (10) hook-ups for the "Inn Site" at the rate of 500 gallons per day per hook-up. These hook-ups are appurtenant to the real property described as Mendocino County Assessor's Parcel Numbers 131-110-04 and 131-110-36, shall run with land and are site-specific and non-transferable. Plaintiffs may not ever sell, transfer, convey, deed, covenant or contract any rights associated with these hook-ups so as to segregate any water from their parcels, unless subsequently agreed otherwise by the District.
5. The District shall provide water service to the 44 parcels in Unit 9 when hook-up is requested, pursuant to its normal policies, procedures, rules and regulations. These hook-ups are appurtenant to the parcels, shall run with land and are site-specific and non-transferable. Plaintiffs may not ever sell, transfer, convey, deed, covenant or contract any rights associated with these hook-ups so as to segregate any water from their parcels, unless subsequently agreed otherwise by the District. Plaintiffs shall be exempt from paying normal and customary capital improvement assessments or standby fees as to any of the 44 parcels and hook-ups in Unit 9 through December 31, 2005, unless or until that parcel is sold, which ever is first. Plaintiffs agree to immediate assessment on each of the 44 parcels of Unit 9 for the Mallo Pass development portion of a voter approved Proposition 218 rate structure. Plaintiffs shall be exempt from paying normal operation

and capital improvement assessments on the "Inn Site" until the "Inn Site" is connected to the District.

6. The District agrees to provide up to 21 water service obligations to the acreage parcels. Each service obligation shall consist of the equivalent of one customary residential connection of 300 gallons of water per day and shall be billed accordingly. Individual acreage parcels shall be exempt from paying any District assessments or charges until that parcel is connected to the District system. The District agrees that these obligations are not appurtenant to respective acreage parcels and may be assigned or transferred by the plaintiffs. Plaintiffs agree to reimburse the District for the District's actual cost of each requested connection, including meter, materials and labor. Plaintiffs agree that connections and meters shall be located along the District's existing 3" water main located east of Unit 9. Plaintiffs agree to be responsible for the installation, maintenance and liability of all pipelines servicing acreage parcels from the point(s) of connection.

7. The District agrees that its plan for obtaining additional water source supply will consist of first connecting to the existing Irish Creek lower diversion and, secondly, developing and connecting a Mallo Pass project to the District's water system. The District agrees that it will attempt to process a Proposition 218 capital improvement and capital replacement rate structure which shall include the Mallo Pass project as soon as possible following execution of this Agreement. The District further agrees that all future assessments for water source development shall be shared equally among all parcels, including those with houses, pursuant to the intent of Proposition 218.

8. The District shall retain all rights to the 1974 Water permit, as modified, for Mallo Pass and any and all easements conveyed by Plaintiffs to the District at any time.

9. The District shall retain all rights to Well No. 9.

B. Mutual Release. The Plaintiffs hereby release, acquit and forever discharge Defendant, as well as all officers, directors, employees and agents thereof, from any and all existing and future actions, causes of action, claims, request for equitable relief, demands, damages, costs, loss of use, loss of revenue, expenses, compensation, reimbursements and other forms of damages arising from the 1974 Water Permit, the 1988 Water Development Agreement, the 1992 Litigation, 1995 Settlement Agreement, or this Action.

The District hereby releases, acquits and forever discharges Plaintiffs from any and all existing and future actions, causes of action, claims, request for equitable relief, demands, damages, costs, loss of use, loss of revenue, expenses, compensation, reimbursements and other forms of damages arising from the 1974 Water Permit, the 1988 Water Development Agreement, the 1992 Litigation, 1995 Settlement Agreement, or this Action.

C. Attorneys' Fees and Litigation Costs. The Plaintiffs' rights, if any, to recover any sum as and for its recoverable costs of suit, including reasonable attorneys' fees, are waived by Plaintiffs. Defendant likewise releases any and all claims against the Plaintiffs, including claims for attorneys and costs under Cal. Code of Civil Procedure § 1038 and 128.7. Each party shall bear its own attorneys fees and costs of suit to date, including its pro-rata share of the mediator's fees.

D. Dismissals. This Agreement and Release is expressly conditioned upon a Dismissal of this Action with prejudice. The Plaintiff shall dismiss its complaint in this Action with prejudice. Plaintiff shall either provide to Defendant an endorsed filed copy of a Request for Dismissal or an executed Request for Dismissal ready for filing as soon as reasonably possible after executing this Agreement.

E. Waiver of Unknown Claims. The Parties understand and agree that they mutually waive any and all existing and future rights, losses, damages, and claims against each other arising from the Event, including those which they do not know or suspect to exist in their favor at the time of executing the Agreement which, if known by them, would have materially affected this settlement.

The Parties specifically waive their rights under Section 1542 of the Civil Code of California, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

F. Time of the Essence. The Parties recognize that time is of the essence and that each party will undertake their respective steps to conclude this matter as soon as reasonably possible.

G. Entire Agreement; Modification; Construction. This Agreement consists of nine (9) pages, inclusive of Exhibit A, and represents and contains the entire agreement and understanding among the Parties with respect to the subject matter of this document, and supersedes any and all prior oral and written agreements and understandings. No prior representation, warranty, condition, understanding or agreement of any kind with respect to the subject matter hereof shall be relied upon by the Parties unless specifically incorporated by the Agreement. The Agreement shall not be amended or modified except by an agreement in writing signed by the Party against whom the enforcement of any modification or amendment is sought. This Agreement shall be construed to have been drafted equally by the Parties.

H. Binding Effect. This Agreement shall be binding on, and inure to the benefit of, the successors and assigns of the Parties. Nothing in the Agreement, expressed or implied, is intended to confer upon any person (other than the Parties, or their respective successors and assigns) any rights or benefits. The Parties are of legal age, legally competent to execute the Agreement, and accept full responsibility under the Agreement. The Parties freely and voluntarily enter into the Agreement. By signing below, each Party acknowledges that it/he has consulted with an attorney prior to signing below.

I. Controlling Law. The Agreement was made in the State of California, and shall be construed in accordance with California law. The Mendocino County Superior Court and/or the Hon. William L. Bettinelli shall retain jurisdiction for the purpose of interpreting or enforcing any term or condition of the Agreement.

J. Counter-Parts. This Agreement may be executed in multiple counter-parts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

K. No admission of any fact. Neither the Agreement, nor its execution by one of the Parties, shall be deemed or alleged to constitute any admission of any fact relating to claims by the Parties, or to constitute any admission of the truth of any of the allegations contained in the pleadings in the Action; nor shall the Agreement be offered in evidence by anyone in any action or proceeding for any purpose.

L. Attorneys' Fees. The prevailing party in any legal action to enforce a provision of this Agreement will be entitled to recover all of its costs and its reasonable attorneys' fees from the other party.

M. Counterpart. The Parties may execute this Agreement in counterpart.

WITNESSETH, the parties have executed this Agreement as of the date herein:

Dated _____

William M. Moores

Dated _____

Tona E. Moores

Dated _____

Kathleen Poling, Vice President
Irish Beach Water District
Board of Directors

Dated March 13, 2002

Chico P. Burman
Chico Burman, Director
Irish Beach Water District
Board of Directors

Approved as to Form

For the General Counsel
Irish Beach Water District

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L. Attorneys' Fees. The prevailing party in any legal action to enforce a provision of this Agreement will be entitled to recover all of its costs and its reasonable attorneys' fees from the other party.

M. Counterpart. The Parties may execute this Agreement in counterpart.

WITNESSETH, the parties have executed this Agreement as of the date herein:

Dated _____

William M. Moores

Dated _____

Tona E. Moores

Dated 3/12/02

Kathleen L. Poling
Kathleen Poling, Vice President
Irish Beach Water District
Board of Directors

Dated _____

Chico Burmania, Director
Irish Beach Water District
Board of Directors

Approved as to Form

Kenneth A. Wilson /BTR
For the General Counsel
Irish Beach Water District

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L. Attorneys' Fees. The prevailing party in any legal action to enforce a provision of this Agreement will be entitled to recover all of its costs and its reasonable attorneys' fees from the other party.

M. Counterpart. The Parties may execute this Agreement in counterpart.

WITNESSETH, the parties have executed this Agreement as of the date herein:

Dated 3/14/02

William M. Moores
William M. Moores

Dated 3/14/02

Tona E. Moores
Tona E. Moores

Dated _____

Kathleen Poling, Vice President
Irish Beach Water District
Board of Directors

Dated _____

Chico Burmania, Director
Irish Beach Water District
Board of Directors

Approved as to Form

For the General Counsel
Irish Beach Water District

EXHIBIT "G"

OWNER'S WELL No 6584

Date Work Began 9/18/08 Ended 9/23/08

Local Permt Agency MENDOCINO

Permit No. WW21388

Permit Date 9-19-2008

STATE OF CALIFORNIA WELL COMPLETION REPORT

No. 20079314

FOR USE ONLY - DO NOT FILL IN

STATE WELL NO. STATION NO.

LATITUDE LONGITUDE

APN / TRS / OTHER

ORIENTATION Vertical Degree of Angle _____

WELL OWNER IRISH BEACH WATER DISTRICT

DEPTH FROM SURFACE DEPTH TO FIRST WATER (FL) BELOW SURFACE

P.O. BOX 67
MANCHESTER CA 95459

F1	F1	DESCRIPTION
0	2	topsoil
2	22	brown clay
22	60	weathered greenstone
60	90	greestone with clay
90	175	fractured greenstone
175	200	hard greenstone

Address 15401 FORESTVIEW ROAD

City MANCHESTER County MENDOCINO

App Book 132 Page 210 Parcel 22

Township _____ Range _____ Section _____ 1/4 _____ 1/4

Latitude _____ NORTH Longitude _____ WEST

Deg. Min Sec. _____ Deg. Min Sec. _____

LOCATION SKETCH

Tank 5 well

TOTAL DEPTH OF BORING 200 (Feet)

TOTAL DEPTH OF COMPLETED WELL 200 (Feet)

ACTIVITY NEW WELL PLANNED USE(S) PUBLIC WATER

DRILLING METHOD ROTARY MUD FLUID

DEPTH OF STATIC WATER LEVEL 81 (FL) & DATE MEASURED SEP 23 2008

ESTIMATED YIELD * 100 (G.P.M.) & TEST TYPE sicft

TEST LENGTH 2 (Hrs.) TOTAL DRAWDOWN 180 (FT.)

*May not be representative of a well's long-term yield

DEPTH FROM SURFACE		BORE-HOLE		CASING			
FL	To FL	DIA	TYPE	Material / Grade	Dia.	Gauge	Slot size
0	50	10 5/8	BLANK	F480 PVC	5	160	
50	80	8 3/4	BLANK	F480 PVC	5	160	
80	200	8 3/4	PERF	F480 PVC	5	200	032

DEPTH FROM SURFACE		ANNULAR MATERIAL	
FL	To FL	Seal Material	Filter Pack (Type / Size)
0	50	BENTONITE	
50	200		Pen Gravel

- Attachments
- Geologic Log
 - Well Construction Diagram
 - Geophysical Logs
 - Soil Water Chemical Analyses
 - Other

CERTIFICATION STATEMENT

I, the undersigned, certify that this report is complete and accurate to the best of my knowledge and belief

NAME FISCHBROS DRILLING INC

(PERSON, FIRM, OR CORPORATION) (TYPED OR PRINTED)

5001 Grovenstein Hwy No Sebastopol CA 95472

Signed Dale Theiss 9/23/08 399226

WELL DRILLER / AUTHORIZED REPRESENTATIVE DATE SIGNED C-57 LICENSE NUMBER

EXHIBIT "H"



1-4-09



bar-1



8-7-09



8-7-09



8-7609

EXHIBIT "I"

LAW OFFICE OF DUNCAN M. JAMES

DUNCAN M. JAMES
DAVID M. KINDOPP
DONALD J. McMULLEN
C. DAVID EYSTER

LAMBS INN
P. O. BOX 1381
445 NORTH STATE STREET
UKIAH, CALIFORNIA 95482
(707) 468-9271

FAX (707) 468-0453
lawoffice@duncanjames.com

OF COUNSEL
JOSEPH JOHN TURRI

November 19, 2008

Irish Beach Water District
P.O. Box 67
Manchester, CA 95459

Re: Irish Beach Water District

Dear Directors:

At the conclusion of the Water Board's meeting of September 13, 2008, the Board directed its' manager to meet with William Moores to discuss the District's undisclosed plans to drill test wells and to obtain any permissions that may be required. On that day Mr. Acher and Mr. Moores agreed to meet in the afternoon of September 18, 2008, in Mr. Moores office for that purpose. On Thursday, September 18, 2008, Mr. Moores was in Unit #9 inspecting property. At that time, Mr. Acher happened to be passing by. He stopped to inform Mr. Moores that the District had already successfully drilled a new well on Gordon Moores land in the location of an existing District easement. He then stated that the District at that very moment was setting up to drill another well at the District's tank #5 site easement on William Moores land. Mr. Moores promptly informed Mr. Acher that he had reviewed the recorded conveyances of rights previously given to the District and that it does not appear that the District has been granted an easement to drill a well at tank site #5 on Mr. Moores land and that the only well authorized by existing recorded documents was the single existing well located within a 30 ft. diameter area described in the prior recorded deeds. Mr. Moores stated that arrangements should be made in advance of any drilling and that he advised Mr. Acher not to proceed with the drilling. Mr. Acher then left to attend the activities at the well drilling rig without indicating what action he would take but both parties understood that the Friday meeting was now off the agenda.

According to the documents recorded with the County of Mendocino, the District does not hold an existing right or ownership to the well drilled on about September 19, 2008, at tank site #5 nor the right to extract water therefrom. The only right currently held by the district is for a single existing well located within a 30 ft. diameter area described in the recorded deeds. If you disagree, please submit the document you rely upon.

Therefore, until such time as you can prove that Mr. Moores is incorrect or we come to some amicable solution of the dispute, you are hereby instructed to not use the new well for any purpose, including but not limited to the extraction of water. Any entry onto the property of Mr. Moores for any purpose other than turning off the well will be considered a trespass and may significantly interfere with any future discussions regarding the Districts future use of the well.

Irish Beach Water District
Page 2
November 19, 2008

Finally, Mr. Moores has asked that I point out to you that he is willing to discuss with the District some reasonable terms on which the use of the well may be resumed but that those discussions must take place through my office and that any time or expense incurred in attorney fees and costs by Mr. Moores will have to be paid by the District.

Very truly yours,

/s/ DUNCAN M. JAMES

DUNCAN M. JAMES

Cc: Client

EXHIBIT "J"

May 27, 2009

VIA E-MAIL AND U.S. MAIL

Duncan M. James, Attorney
Law Offices of Duncan M. James
Lambs Inn
P.O. Box 1381
445 North State Street
Ukiah, CA 95482

MAY 18 2009

Re: Irish Beach Water District

Dear Mr. James:

I have received and have had the opportunity to review your letter to the Irish Beach Water District Board of Directors dated November 19, 2008. Your letter asserts that the Irish Beach Water District ("IBWD") does not have an existing legal right to extract water from the easement granted by William M. Moores and Tona Elizabeth Moores to IBWD on or about July 5, 1988 and subsequently recorded on or about July 20, 2008.

The subject easement, titled 'SODERBERG TANK SITE, WELL, AND PIPELINE EASEMENT,' provides IBWD with the ability to extract and store water collected from the easement site. Specifically, the grant provides for a water Tank Site and all supporting *water system appurtenances* within the easement. A clear reading of this language provides an easement to IBWD to place, construct, and maintain water system appurtenances within the easement to support the Tank Site. A more narrow interpretation, as suggested by your client, eviscerates IBWD's ability to provide continuing basic service levels to its customers in the event of a system failure, reduction in flow, or an increased demand from existing or future customers, and further compromises IBWD's ability to ultimately satisfy its legal commitments to those customers being served from the Soderburg easement site. Moreover, this easement, originally granted to Ms. Harrison by William and Tona Moores and Gordon and Sandra Moores as individuals and partners of Moores Associates on August 13, 1986, and subsequently recorded on September 16, 1986, specifically referenced and described cost allocation measures to be taken in the event of a need for capital expenditures and/or replacements to the existing structures within that easement.

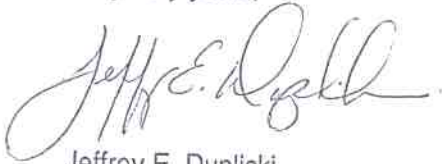
IBWD asserts that it has the legal right to construct, maintain, and repair, as necessary, all water system appurtenances within the Soderburg easement in order to support the Tank Site distribution facility. The well being constructed by IBWD lies entirely within the legal description of the easement and, furthermore, the well casing slab occupies a space of approximately 9 square feet within the existing easement creating no additional burden upon the Moores' property requiring additional compensation or concessions.

Duncan M. James, Attorney
May 27, 2009
Page 2

With respect to your allegations of trespass, IBWD has had the legal right to enter the lands of Moores for quite some time to allow access to its easements and its supporting water system structures . Such access has been granted to IBWD by the Moores and their various business entities through the multiple renditions of easement grants given over the years. If, however, you disagree with IBWD's analysis with respect to its access rights or the ability of IBWD to maintain, construct and repair its facilities, please provide me with further documentation and/or any relevant case law which would tend to support your position.

Unfortunately, it seems as though your client has taken a position which is simply intended to hamper the ability of IBWD to continue to provide service to its customers and to perform the required daily operations within IBWD's easements to satisfy current and anticipated future customer demands. While it is conceivable that your client may be mistaken with respect to the location of the well placed by IBWD, and that he may want to extract additional monies or concessions from IBWD for construction of water system appurtenances outside of IBWD's existing easements, I believe, that in this case, IBWD has demonstrated that it has the legal right to extract water and to construct water system appurtenances all within the existing Soderburg easement without any further payment or concessions for future water hook ups to your client.

Very truly yours,



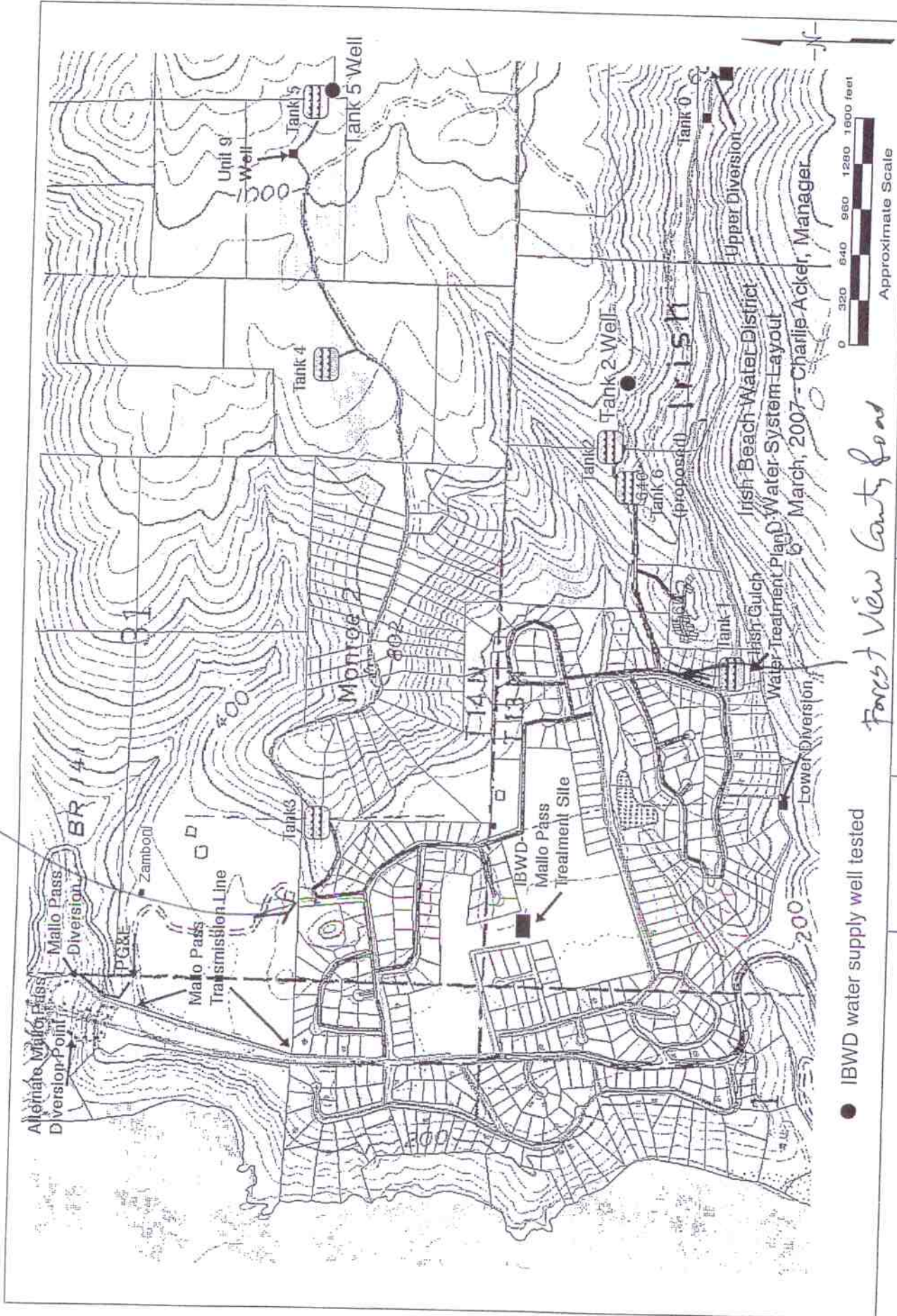
Jeffrey E. Duplicki

JED:JED

cc: Board of Directors, Irish Beach Water District
1236406.1

EXHIBIT "K"

Alta Mesa County Road



● IBWD water supply well tested

Forest View County Road

Pacific GeoScience

Job No: 1054A
Drawn: EWH
Date: Dec. 2008

All Locations Approximate

Well Location Map
Irish Beach Water District
Mendocino County, California

Figure

1

Irish Beach Water District
Water System Layout
March, 2007 - Charlie Acker, Manager

EXHIBIT "L"

When recorded mail to:
Moore & Associates
Star Route, Irish Beach
Manchester, CA 95459

52040

RECORDED & RETURNED BY
WESTERN TITLE INSURANCE COMPANY

BOOK 1104 PAGE 4

AUG 12 3 38 PM '77

OFFICIAL RECORDS
MENDOCINO COUNTY, CALIF.

W. S. Richardson
ORDER

\$33.00

DECLARATION OF
COVENANTS AND RESTRICTIONS

THIS DECLARATION is made this 11th day of August, 1977, by MENDOCINO COAST PROPERTIES, a California corporation, and MOORES ASSOCIATES, a partnership (hereinafter collectively called "Grantor").

RECITALS:

Grantor makes this Declaration upon the basis of the following facts and intentions:

A. Grantor is the owner of that certain real property located in the County of Mendocino, State of California, more particularly described in Exhibit A, attached hereto and incorporated herein by reference thereto (hereinafter called "First Increment"). Grantor also is the owner of that certain real property located in the County of Mendocino, State of California, more particularly described in Exhibit B, attached hereto and incorporated herein by reference thereto (hereinafter called the "Annexation Property").

B. Grantor plans to subdivide and develop the First Increment and the Annexation Property and impose thereon beneficial restrictions under a general plan of improvement for the benefit of all of such real property, every part thereof and interest therein. Initially, Grantor intends to subdivide and develop the First Increment, reserving the right to impose similar restrictions upon portions of the Annexation Property developed from time to time, to the end that the entire property may ultimately be developed, owned, used, managed, occupied and improved as a single project for the benefit of every part thereof and interest therein and the Owners of such parts and interests.

C. Grantor is the Grantor named in the "Second Amended and Restated Declaration of Restrictions, Units One, Two, Three and Four, Mendocino Coast Subdivision, recorded on November 16, 1971, in Book 868 at Page 131, Official Records, Mendocino County, California"

as corrected by document dated April 26, 1974 recorded on April 19, 1974 in Book 960, Page 38, Official Records of Mendocino County (the "Restrictions"), Article 8(a) of which provides for incorporation of additional lands by further amendment in the sole discretion of Grantor. Grantor intends hereby: ~~to amend~~ the Restrictions to add the First Increment to the lands subject thereto; to further restrict the First Increment in an appropriate manner; and to provide for the addition of the Annexation Property to the development.

NOW, THEREFORE, Grantor hereby declares that the First Increment and such portions of the Annexation Property as Grantor hereafter elects to make subject hereto (hereinafter called the "Properties"), shall be held, conveyed, encumbered, used, occupied and improved subject to the Restrictions unless specifically excepted therefrom hereinbelow and to the following restrictions, covenants and conditions, all of which are in furtherance of a plan for subdivision, improvement and sale of said Properties and are established for the purpose of enhancing the value, desirability and attractiveness of the Properties and every part thereof. All of the restrictions, covenants and conditions shall run with the Properties and shall be binding on all parties having or acquiring any right, title or interest therein ~~or~~ thereto and shall be for the benefit of each owner of any portion thereof and inure to the benefit of and be binding upon each successor in interest of such Owners.

1. Definitions

(a) "Annexation" shall mean the process by which portions of the Annexation Property ~~are~~ made subject hereto pursuant to paragraph 2 hereof.

(b) "Building" shall mean all of the improvements located upon a lot or lots.

(c) "Building site" shall mean that one acre circular portion of a Parcel surrounding the ~~existing~~ dwelling (if any) on a parcel.

(d) "Mortgage" shall mean a deed of trust as well as a mortgage.

(e) "Mortgagee" shall mean a beneficiary under a holder of a deed of trust as well as a mortgagee.

(f) "Parcel" shall mean the Lot and Buildings thereon and appurtenances thereto.

(g) "Lot" shall mean each lot or parcel of the property shown upon a Subdivision Map or Parcel Map on record or on a Minor Division Map approved by the County as of the effective date of this Declaration.

Other terms defined in the Restrictions shall have the same meaning herein.

2. Amendment to Restrictions

(a) Grantor hereby amends the Restrictions as provided in paragraph 8(a) thereof to make the First Increment subject to the Restrictions except that Section 3.01, subparagraph(b) shall be changed to read "used exclusively for residential and agricultural purposes"; subparagraph (c) shall be modified to permit one residential structure which may be designed to accommodate up to three families; subparagraph (m) shall not be applicable to a two acre area over the existing gravel quarry located on the parcel described as N $\frac{1}{4}$ of NE $\frac{1}{4}$ plus the N $\frac{1}{4}$ of NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 5, T13N, R16W; subparagraph (p) shall be modified to eliminate the height limit for trees.

(b) Additional covenants applicable to the Properties shall be as follows:

(1) No easements shall be altered or relocated without the consent of the Committee.

(2) No owner, other than Grantor, may clear or remove any vegetation from a parcel outside of a Building Site without the approval of the Committee.

(3) Only one surface structure, except water tanks, containing dwelling unit(s) shall be permitted on each Building Site. No other surface structures shall be placed on any parcel or the access easement as described in Exhibit C.

(4) Each owner may construct a single driveway between their Building Site and the nearest

location of the utility and access easement as described in Exhibit C (attached). The Committee shall require in their approvals adequate drainage structures and surface re-rocking. All utility lines (if any) shall be located within the road prism and driveways. The Committee shall require adequate trench depths, select backfills, compaction and surface rework where construction disturbs existing roads.

3. Annexation

(a) The Properties and all of the Annexation Property are held for sale pursuant to the Subdivision Map approvals of Mendocino County.

(b) From time to time, and without requirement of consent by the Owners or the Committee except as provided in subparagraph (a) hereof, Grantor may annex all or portions of the Annexation Property by recording a Declaration of Annexation meeting the requirements hereinafter set forth. A successor or assign of Grantor to ten (10) or more Parcels in the Annexation Property may annex all or portions thereof in the same manner.

(c) The Declaration of Annexation shall be recorded in the Office of the Recorder of the County of Mendocino and shall:

- (1) describe the property to be annexed;
- (2) declare that the property so described is annexed pursuant to the provisions hereof;
- (3) declare that the property so described has been, or is being, developed substantially in accordance with the Development Plan citing the specific portions of the Development Plan applicable thereto (if any);
- (4) Provide for other restrictions, conditions, and allocations of rights and benefits not inconsistent with the provisions hereof and the Development Plan as Grantor may deem appropriate; and
- (5) further amend the Restrictions to make them applicable to the property to be annexed.

(d) From and after the date of recording of a Declaration of Annexation, the property subject thereto shall become part of

the Properties for all purposes of these restrictions.

4. Construction of Improvements, Maintenance and Landscaping of Lots

(a) Each Owner shall maintain the Building or Buildings upon each Lot or Lots he owns, including exterior painting and roof repair, in good condition, making all appropriate repairs and replacements as often as the same shall become necessary. The Owners of each Parcel within the First Increment shall be responsible for maintaining the roads and supporting structures located within the area described in Exhibit C in a manner suitable for year-round automobile and seasonal logging truck traffic. Each Parcel ownership shall assume a portion of the annual cost of such maintenance equal to the estimated total annual cost of maintenance divided by the number of Parcels in the First Increment. The Committee shall annually "set" the total estimated dollars needed for one year's maintenance and shall bill each Owner for his share allocation. In the event subsequent increments of development granted use of the Exhibit C area are added, the cost shall be divided by the number of total Parcels in each increment. The Committee shall manage the maintenance and the funds therefore.

(b) The Committee shall direct any Owner who has not complied with the provisions of subparagraph (a) of this paragraph 4 to make appropriate repairs to take other appropriate steps to remedy the condition of default. If the Owner does not commence to make and diligently proceed with the repairs as so required within thirty (30 days after written notice of the need therefor, then the Committee shall have the right to seek and secure an injunction against any use or occupancy thereof.

5. Amendment. The provisions of these restrictions may be amended by an instrument in writing signed and acknowledged by the Owners of sixty-six and two-thirds percent (66-2/3%) Lots in the Properties. Such amendment shall take effect upon recordation thereof in the Office of the Recorder of the County.

6. Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity

EXHIBIT A

That certain real property situated in the County of Mendocino, State of California, described as follows:

PARCEL ONE: The Southwest quarter of Northwest quarter of Section 32; the East half of the Southeast quarter of Northeast quarter and the East half of the East half of the Southeast quarter of Section 31; Township 14 North, Range 16 West, Mount Diablo Base and Meridian. EXCEPT the Northerlymost 40 acres.

PARCEL TWO: The Southwest quarter of the Northeast quarter and the West half of the Southeast quarter of the Northeast quarter and the West half of the East half of the Southeast quarter of Section 31, Township 14 North, Range 16 West, Mount Diablo Base and Meridian. EXCEPTING therefrom the following:

1st: Commencing at a point which bears North $54^{\circ}18'30''$ West 1371.19 feet from the southeastern section corner of Section 31, T14N, R16W, M.D.B. & M., as said corner is shown on that certain Record of Survey Map of the Lands of Harwood Investment Company, of record in Map Case 2, Drawer 24, Page 31, said Mendocino County Records, and running thence from said point of commencement due South 360.00 feet; thence due West 160 feet (guessed distance), more or less, to the easterly line of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 31; thence in a northerly direction along said last mentioned line to a point which bears due West of said above mentioned point of commencement; and thence due East 160 feet (guessed distance), more or less, to the point of commencement.

The bearings in this description are based on the California State Coordinate System Zone 2.

2nd: An easement for water tank and pipeline purposes and other uses incidental thereto, including vehicular access, over the following described parcel of land:

Commencing at a point which bears North $54^{\circ}18'30''$ West 1371.19 feet from the southeastern section corner of Section 31, T14N, R16W, M.D.B. & M., as said corner is shown on that certain Record of Survey Map of the Lands of Harwood Investment Company, of record in Map Case 2, Drawer 24, Page 31, said Mendocino County Records, and running thence from said point of commencement due East 350.00 feet; thence due South 150.00 feet; thence due West 350.00 feet; and thence due North 150.00 feet to the point of commencement.

The bearings in this description are based on the California State Coordinate System Zone 2.

3rd: The Northerlymost 40 acres.

PARCEL THREE: Lot 4 and the Southerly half of Lot 3 in Section 5; and Lot 1 and all that portion of the North 1303.26 feet of Lot 2 in Section 6, lying Southeasterly of the following described line: BEGINNING at the Northeast corner of said Lot 2 and running thence Southwesterly in a straight line to the Southwest corner of the above described North 1303.26 feet of said Lot 2, and all being within Township 13 North, Range 16 West, Mount Diablo Base and Meridian.

ALSO portion of Section 6, Township 13 North, Range 16 West, Mount Diablo Base and Meridian, described as follows:

BEGINNING at a 1/2 inch pipe set to mark the Northeast corner of Lot 1, Unit 4, Mendocino Coast Subdivision, as shown on map filed in Case 2, Drawer 11, page 26, Mendocino County Records; thence from point of beginning South $89^{\circ}48'$ East 280.00 feet to a 1/2 inch pipe; thence North $00^{\circ}12'$ West 61.50 feet; thence North $89^{\circ}56'$ East 400.00 feet; thence South $00^{\circ}12'00''$ East to the North line of the Southwest quarter of the Northeast quarter of said Section 6; and the true point of beginning of the land to be described; thence from said true point of beginning North $89^{\circ}56'$ East along the last said line to the centerline of Irish Gulch; thence Westerly downstream along said centerline to a point from which the true point of beginning bears North $02^{\circ}00'$ West; thence North $02^{\circ}00'$ West to the true point of beginning.

ALSO Parcel 2 as shown upon that certain Parcel Map filed for record on April 27, 1964 in Map Case 2, Drawer 3, page 5, Mendocino County Records.

EXCEPTING FROM PARCEL THREE that portion thereof lying within the following described parcel of land:

Portion of Section 6, Township 13 North, Range 16 West, Mount Diablo Base and Meridian, described as follows: BEGINNING at a 1/2 inch pipe set to mark the Northeast corner of Lot 1, Unit 4, Mendocino Coast Subdivision, as shown on map filed in Case 2, Drawer 11, page 26, Mendocino County Records; thence from point of beginning South 89° 48' East 280.00 feet to a 1/2 inch pipe; thence North 00° 12' West 61.50 feet; thence North 89° 56' East 400.00 feet; thence South 00° 12' 00" East 795.00 feet, more or less, to the centerline of Irish Gulch; thence Westerly downstream along the centerline of said gulch 720.00 feet, more or less, to a point from which the point of beginning bears North 02° 00' 00" West 875.00 feet; thence North 02° 00' 00" West 875.00 feet to the point of beginning.

ALSO EXCEPTING therefrom the following:

that certain real property situate in the County of Mendocino, State of California, 100.00 feet on each side of the following described centerline:

COMMENCING at the southwesterly corner of Parcel "A" as shown on that certain Parcel Map recorded in Case 2, Drawer 12, Page 49, Mendocino County Records;

Thence along the easterly line of Forest View Road as shown on said Parcel Map S.05°21'04"E., (Record S.06°30'00"E.) 30.07 feet;

Thence along the arc of a tangent curve to the right having a radius of 275.00 feet, through a central angle of 00°02'34", a length of 0.20 feet;

Thence leaving aforesaid easterly line of Forest View Road along a line that is parallel with and 30.00 feet southerly (measured at a right angle) of the southerly line of aforesaid Parcel "A" N.76°54'53"E., (Record N.75°45'57"E.) 165.67 feet to a point on the easterly line of Tract 113, Mendocino Coast Subdivision, Unit Four, recorded in Case 2, Drawer 11, Page 26, Mendocino County Records, from said point the southeasterly corner of aforesaid Parcel "A" bears N.00 51'04"W., (Record N.02°00'00"W.) 30.70 feet);

Thence leaving said easterly line of Mendocino Coast Subdivision along the approximate centerline of an existing road N.72°34'06"E., 308.81 feet;

Thence along the arc of a tangent curve to the left having a radius of 250.00 feet, through a central angle of 11°36'40", a length of 50.66 feet to a point of reverse curvature;

Thence along the arc of a tangent curve to the right, having a radius of 200.00 feet, through a central angle of 43°27'09", a length of 151.68 feet to a point of reverse curvature;

Thence along the arc of a tangent curve to the left having a radius of 200.00 feet, through a central angle of 30°38'19", a length of 106.95 feet to a point of reverse curvature;

Thence along the arc of a tangent curve to the right, having a radius of 375.00 feet, through a central angle of 26°32'58", a length of 175.95 feet to a point of reverse curvature to the point of beginning;

Thence along a straight line bearing N49°42'04" a length 400 feet; The bearings in this description are based on the California State Coordinate System Zone 2.

Based upon a survey by Raymond M. Burgess, Licensed Land Surveyor No. 3889 in July and October, 1974.

EXHIBIT "M"

**IRISH BEACH WATER
DISTRICT**

**ENGINEER'S REPORT
FOR DISTRICT-WIDE
CAPITAL
IMPROVEMENT
ASSESSMENT
(PURSUANT TO ARTICLE XIID OF
THE CALIFORNIA CONSTITUTION)**

July 2002

**BARTLE WELLS ASSOCIATES
Independent Public Finance
Advisors
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- A – IBWD Fixed Asset Listing
- B – List of Parcels Covered by Assessment
- C – Articles XIII C and XIII D of the California Constitution

INTRODUCTION

The Irish Beach Water District (District) was created to supply water to the parcels of the Irish Beach Sub-division in Manchester, California. The District currently provides water services to approximately 175 connected parcels. The District believes that it can serve 460 parcels.

This Engineer's Report (Report) includes (a) the improvements that provide a special benefit to identified parcels in the District; (b) a method for assigning the capital improvement assessment (Assessment) to parcels; (c) the amount and method of determining the proposed Assessment for each identified lot or parcel. This Report and the proposed Assessment have been made pursuant to Article XIII D of the California Constitution (the Article). For a more complete description of the Article, please refer to the Report Appendices.

Following submittal of this Report to the Board of Directors (the Board) for preliminary approval, the Board may, by Resolution, call for an assessment ballot proceeding, and notice and conduct a public hearing on the proposed establishment of water capital improvement assessment.

If it is determined that the Assessment ballots submitted in favor of the proposed Assessment exceed the Assessment ballots submitted against the Assessment (weighted by the proportional financial obligation of each property for which ballots are submitted) the Board may take action to approve the levying of the Assessment. If the Assessment is so confirmed and approved, the levies would be included on the first bill noticed in the ballot measure.

CERTIFICATES

1. The undersigned respectfully submits the enclosed Engineer's Report and does hereby certify that this Engineer's Report, and the Assessment herein, have been prepared by me in accordance with the order of the Irish Beach Water District Board of Directors adopted on April 14, 2001.



Engineer of Work, No. C45642

2. I, the Secretary of the Irish Beach Water District Board of Directors, County of Mendocino, California, hereby certify that the enclosed Engineer's Report, together with the Assessment thereto attached, was filed and recorded with me on _____.

Secretary of the Board

3. I, the Secretary of the Irish Beach Water District Board of Directors, County of Mendocino, California, hereby certify that the Assessment in this Engineer's Report was approved and confirmed by the Board on _____, by Resolution No. _____.

Secretary of the Board

METHOD OF APPORTIONMENT

This section of the Report includes an explanation of the benefits to be derived from providing the improvements, and the method used to determine the Assessment to identified properties within the District. The method used for apportioning the Assessment is based upon the special benefits derived by the identified properties in the District over and above general benefits conferred on real property or to the public at large. The apportionment of special benefit is a two step process:

- the first step is to identify the types of special benefit arising from the improvements to be funded by the assessments, and all the parcels that will receive any special benefit to be funded by the assessments; and
- the second step is to allocate the assessment to property based on the estimated relative special benefit for each type of property.

In summary, assessments can only be levied based on the special benefit to property. This benefit is received by property over and above any general benefits. Proposition 218, as codified in Article XIII D of the California Constitution, has confirmed that assessments must be based on the special benefit to property:

"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."

Because assessments are levied on the basis of special benefit, they are not a tax and are not subject to Article XIII A of the California Constitution.

Special Benefit

The special benefit that will result from the Assessment is summarized as follows:

Capital improvements to the water system designed to improve, expand, or support water availability and/or delivery.

The proposed Assessment will provide funding for investment in water capital improvements for parcels identified by the District. This benefits the properties by improving existing infrastructure, and permitting capital investment in the water system to expand water supply and improve the water system's reliability and the District's ability to deliver high quality water year round.

The cost of providing the improvements within the District is a special benefit to the subject parcels because the improvements confer the special benefit described above. The benefit is a special benefit because the subject properties will receive a benefit, which is not received by properties outside of the District, the public at large, or other properties not subject to the Assessment. If in the future, properties not currently identified as receiving a special benefit require service, these properties would be required to fund their share of the special benefits in order to receive service.

The allocation of funds for the improvements is contingent upon the successful development of a revenue source. The Assessment will provide this revenue source and satisfy the funding requirement. Therefore, the Assessment provides special benefit to District parcels by supporting investment in water capital improvements at a greater level than would otherwise be provided.

The District parcels covered by the Assessment are listed in Appendix B. Each District parcel identified in Appendix B will be notified of the Assessment and will have the opportunity to vote on the Assessment.

Assessment Allocation

The second step in apportioning assessments is to determine the relative special benefit to each property. This process involves determining the proportionate special benefit derived by each property. In the process of determining the appropriate method of assessment, the Engineer considered various alternatives. A fixed or flat assessment for all properties was deemed to be appropriate because over 85 percent of the District parcels have zoned uses consistent with the single family home designation. A flat assessment per parcel effectively creates an assessment on the basis of single family equivalents. This single family equivalents methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments.

Table 1 sets out the special benefit improvement items whose costs will be included in the Assessment. System-wide capital improvements relate directly to improvements detailed in the District's Master Water Plan aside from Mallo Pass. Mallo Pass Capital Improvements relate to system improvements required to develop a new water supply on Mallo Pass Creek. The Capital Replacements item will collect funds to repair and replace existing capital with an estimated useful life of 40 years or more. The Loan Payment item recovers the portion of loan payment funds allocable to all identified parcels set out in IBWD Resolution 86-4.

Table 1
Irish Beach Water District
Capital Improvement Assessment Structure (1)

Items to be Included in Assessment

System-wide Capital Improvements
Mallo Pass Capital Improvements
Capital Replacements
Loan Payment - 65% allocated to all parcels (2)

-
- (1) The Capital Improvement Assessment Structure laid out in this report is proposed to be levied on both connected and unconnected parcels within IBWD.
(2) Payment on 1993A and 1993B CSCDA Water Revenue Refunding Bonds
-

Table 2 lists the identified District parcels covered by the Assessment. The parcel numbers within each unit are located in Appendix B. Each District parcel identified in Appendix B will be notified of the Assessment and will have the opportunity to vote on the Assessment.

Table 2
Irish Beach Water District
Summary of IBWD Parcels Covered by Assessment (1)

<u>Parcel Location</u>	<u>Number</u>
Unit I	108
Unit II	75
Unit III	72
Unit IV	86
Unit V	17
Unit VII	42
Unit VIII	16
Unit IX	6
Unit IX	38
Total number of parcels	460
Connected parcels (2)	175
Unconnected parcels (3)	<u>285</u>
Total	460
Percent connected users	38%
Percent unconnected users	62%

(1) As compiled by BWA with IBWD staff from IBWD data.

(2) 172 billed as of 11/2001 with 3 more to be connected as of January 2002.

(3) Note that some parcels will not receive a charge until January 2006

Table 3 sets out the system-wide capital improvements related to improvements detailed in the 1997 Brelje & Race Master Water Plan. Close to \$0.5 million of improvements remain to be completed.

Table 3
Irish Beach Water District
System-wide Capital Improvements to be Recovered by Assessment

Component	Priority	Cost Estimate	
		Brelje & Race - 1997	Current District Estimate (1)
Irish Gulch Creek Water Source			
Treatment Facilities - Diatomaceous Earth (complete)	1	\$91,000	\$0
Raw Water Line - Replace 3,000 feet	2	85,800	12,000
Lower Diversion Improvements	3	6,500	7,200
Pump Stations			
Improvements at Pump Stations A, B and C	1,2,3	10,400	11,400
Pump Station H at Tank T1	3	6,500	6,500
Pump Station G on Alta Mesa Road (resolved)	2	26,000	0
Pump Station F at Tank T4	3	26,000	29,000
Storage Tanks			
Replace Tanks T1 and T3	2	286,000	169,000
Replace Roof of T2 (added)	1		5,000
Replace Tank 2 with 125,000 Gallon Tank	2	85,000	82,000
Replace Tank T5	2	15,600	17,000
Install Fence Around Tank T3 Site	3	3,900	4,000
Water Mains			
Check Valve & Bypass on Alta Mesa Road (complete)	1	2,600	0
Forest View Road Loop (complete)	1	13,000	0
South Highway 1 Loop	2	36,400	40,000
Acquistapace Road Loop	3	22,100	24,500
Miscellaneous			
Fire Hydrant Additions (added 2 to B&R for 4 total)	2	5,200	11,500
Total		722,000	419,100
Subtotal Priority 1			16,400
Subtotal Priority 2			331,500
Subtotal Priority 3			<u>71,200</u>
Total			419,100

(1) Cost estimates as updated by IBWD.

Table 4 sets out the timeline for capital improvements outlined on Table 3. As shown below, about \$28,000 annually is required over the 15 year period to fund the system-wide capital improvements.

Table 4
Irish Beach Water District
Estimated Timeline for System-wide Capital Improvements

Component	Priority	Total Cost 2000	FY (1)		
			2002-2006	2007-2011	2012-2016
Irish Gulch Creek Water Source					
Treatment Facilities - Diatomaceous Earth (complete)	1	\$0		Completed	
Raw Water Line - Replace 3,000 feet	2	12,000	6,400	7,000	
Lower Diversion Improvements	3	7,200			9,100
Pump Stations					
Improvements at Pump Stations A, B and C	1,2,3	11,400		6,600	7,200
Pump Station H at Tank T1	3	6,500			8,200
Pump Station G on Alta Mesa Road (resolved)	2	0		Resolved	
Pump Station F at Tank T4	3	29,000			36,700
Storage Tanks					
Replace Tanks T1 and T3	2	169,000		195,900	
Replace Roof of T2 (added)	1	5,000	5,300		
Replace Tank 2 with 125,000 Gallon Tank	2	82,000		95,100	
Replace Tank T5	2	17,000		19,700	
Install Fence Around Tank T3 Site	3	4,000			5,100
Water Mains					
Check Valve & Bypass on Alta Mesa Road (complete)	1	0		Completed	
Forest View Road Loop (complete)	1	0		Completed	
South Highway 1 Loop	2	40,000		46,400	
Acquistapace Road Loop	3	24,500			31,000
Miscellaneous					
Fire Hydrant Additions (added 2 to B&R for 4 total)	2	11,500		13,300	
Total		419,100	11,700	384,000	97,300
Average Annual Amount over 15 years		28,000			

(1) Cost from Table 3 are escalated by 3% annually to midpoint of period shown on timeline.

Table 5 shows the detail of the Mallo Pass capital improvements required to develop a new water supply on Mallo Pass Creek. The District's estimate of the cost to develop this water supply is about \$0.43 million. This yields an average annual cost of \$29,000 over the 15 year period also used to recover the system-wide improvement costs.

Table 5
Irish Beach Water District
Mallo Pass Capital Improvements

Component	Cost Estimate	
	Brelje & Race - 1997	Current District Estimate
Mallo Pass Creek Water Source		
Transmission Line		88,000
Control Building		15,000
Diatomaceous Earth Plant		60,000
Treatment Plant & Electrical		83,000
Chlorine Treatment System & Turbid Meter		6,000
Diversion Structure and Pump Station		71,000
Clear Well and Pump Station 1		44,000
Engineering – update design concept/to code		26,000
Contingency on Mallo Pass @10%		<u>38,000</u>
Total	580,600	431,000
Average Annual Amount over 15 years		29,000

The Capital Replacements component of the Assessment is set to recover a portion of the cost of replacing the District's fixed assets. This Assessment must recover only special benefit and not general benefit costs. Therefore, only assets whose lives are greater than 40 years have been identified as providing a special benefit to identified District parcels. Furthermore, the Engineer has set the Assessment to recover only 50 percent of the replacement value of the assets over 40 years. The listing of and the replacement value of the District's existing fixed assets is contained in Appendix A of this Report.

Table 6 lists the value of the District's existing fixed assets with lives greater than 40 years as well as the 50 percent of replacement value to be recovered in this component of the Assessment. The average annual cost to be recovered for capital replacements is \$17,500 based on funding replacements at a 50 percent level.

Table 6
Irish Beach Water District
Capital Replacements (1)

Item	
Value of all assets w/lives greater than 40 years	1,397,000
Value to be recovered in Assessment (50%)	698,500
Years over which costs will be recovered	40
Average Annual Amount to be Recovered	17,500

(1) The IBWD Fixed Asset Listing is contained in Appendix A.

The last item of the Assessment is the Loan Payment component which recovers the 65 percent of loan payment funds for capital improvements allocable to all parcels set out in IBWD Resolution 86-4. The remaining 35 percent is collected from parcels who are connected to the water supply system. The annual loan amount is \$10,212. If 65 percent of this cost is recovered over all parcels, the annual cost to be recovered is \$6,600.

Table 7 summarizes the capital improvement Assessment components and the annual cost to be recovered for each one. The total amount to be recovered via the Assessment annually is \$81,100.

Table 7
Irish Beach Water District
Calculation of Capital Improvement Assessment

Item	Annual Cost Recovery	Table
System-wide Capital Improvements	28,000	4
Mallo Pass Capital Improvements	29,000	5
Capital Replacements	17,500	6
Loan Payment - 65% of capital improvements allocated to all parcels (2)	6,600	n/a
Total Annual Amount to be Recovered	81,100	

(1) The Capital Improvement Assessment Structure laid out in this report is proposed to be levied on all parcels both connected and unconnected.

(2) Payment on 1993A and 1993B CSCDA Water Revenue Refunding Bonds. Total annual payment is \$10,212. 35% of the payment is paid for by connected users only.

Given the annual costs to be recovered and the number of parcels over which the Assessment will be recovered, the Assessment components can now be translated into a per parcel cost both on an annual and on a monthly basis as shown below on Table 8.

Table 8
Irish Beach Water District
Calculation of Annual Capital Improvement Assessment

Category	Total Annual Cost	Annual Per Parcel	Monthly Per Parcel
System-wide Capital Improvements	28,000	60.87	5.07
Mallo Pass Capital Improvements	29,000	63.04	5.25
Capital Replacements	17,500	38.04	3.17
Loan Payment - 65% allocated to all parcels (2)	6,600	14.35	1.20
Total Cost to be Recovered (50% Replacements)	\$81,100	\$176	\$14.69
Total Number of Parcels	460	460	460

The monthly parcel Assessment to recover District-wide water capital improvement costs for FY 2002-03 is \$14.69 per month.

Appeals and Interpretation

If after the Assessment is implemented, any property owner contends that the Assessment levied on the subject property is in error as a result of incorrect information being used to apply the Assessment, the property owner may file a written appeal with the Irish Beach Water District. Any such appeal is limited to correction of an Assessment during the then fiscal year. Upon the filing of any such appeal, the District will promptly review the appeal and any information provided by the property owner. If the District finds that the Assessment should be modified, the appropriate changes shall be made. Any dispute over the decision of the District, shall be referred to the Board of Directors and the decision of the Board shall be final.

ASSESSMENT

This section of the report sets out the annual adjustment and duration of the Assessment described in previous sections.

Annual Adjustment for Inflation

The Assessment is subject to an annual adjustment tied to the annual change in the Engineering News Record Construction Cost Index 20 cities average (ENR-CCI) as of January of each succeeding year, with the maximum annual adjustment not to exceed 3%.

In the event that the actual Assessment charge for any given year is not increased by an amount equal to the maximum of 3% or the yearly ENR-CCI change plus any ENR-CCI change in previous years that was in excess of 3%, the maximum authorized Assessment shall increase by this amount. In such event, the maximum authorized Assessment shall be equal to the base year Assessment as adjusted by the increase to the ENR-CCI, plus any and all ENR-CCI adjustments deferred in any and all prior years. The ENR-CCI change above 3% can be used in a future year when the ENR-CCI adjustment is below 3%.

Duration of Assessment

The four components of the Assessment have the following limits.

- The system-wide capital improvement component will cease when the improvements described have been completed or resolved and all related financial obligations have been satisfied.
- The Mallo Pass capital improvement component will cease when the Mallo Pass Creek improvements described have been completed or resolved and all related financial obligations have been satisfied.
- The Capital Replacement component will be collected at the maximum voter approved amount until a capital replacement cash reserve fund of 10% of the replacement value of the District's assets has been funded as determined by the District's treasurer. At this time this component of the Assessment will be adjusted as needed to maintain the capital fund reserve at 10% of the replacement value of the District's assets.
- The loan payment component will cease when the loan has been re-paid.

Dated : July 12, 2002

By: 

Douglas R. Dove, License No. C45642

Engineer of Work



EXHIBIT "N"

=
**IRISH BEACH WATER DISTRICT
MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS
SATURDAY, November 22, 2008
(1 hour 23 minutes 24 sec)**

1. Call to Order 10:02am:

Directors appearing by conference call (phone 877-694-8223)

Director: Kathy Poling Location: Martinez, California.94553

Director: Don Jassowski Not Available for this meeting, technical problems

Director Don Harley, Steve Whitaker, Judy Murray in attendance.

Public in Attendance Pauline, Ed Holyman, Carl Taylor, Charlie Acker, Al and Loretta Thompson, Fred, Renee. Sue Whitaker,

2. Consideration of abandonment of Mallo Pass Permit 1622

District received a Notice on Sep 28 from the state water board, the division of water rights of the proposed revocation of the Mallo Pass permit, The District issued a letter dated Feb 2007 requesting a hearing, Deadline (action) New hearing date: (26-Feb-2009).

Charlie Acker introduced Mr. Ed Holyman the hydrothist / geologist engineer whom has been hired to assist the district in the flow test process. Charlie Acker noted: that district is outside of the well testing period due to the time of year. Testing months are August, September and October. However County does allow extended testing periods if the accumulative rainfall is 6 inches; current rainfall is 5 inches.

Steve Whitaker summarizes well discharge and water usage:

10 gpm Unit 9 well

22 upper diversions

36 lower diversion (number from long term dry weather situation @ its minum)

Mallo Pass 48 gpm Resulting in supply to 502 homes@300 gal per day and with 10% process and conveyance losses. Actual usage: highest per day was in July and Aug 2005 at 260 gallons per day.

Average over many years: 120 gallons per day

Charlie Acker sent Mr. Holyman the pumping results from the old Unit 9 well for review and recommendations on sustaining 12-½ gpm. Mr. Holyman suggested it could pump more.

Static data:

Tk5 replacement well: pumping 20 hours at 68 pgm. (Realistic results are approx. 50 gpm)

Tk2 'deepest well': pumps 17 1/2 gpm from driller's tests (ready to start testing sequence now)

Unit 9 Well: pumps 12 ½ gpm (with the possibly of more gpm)

Charlie Acker also noted that the States ordinance provides different percentages of pumping rates such as:

10 days county allows 50% of sustainable discharge

3 days county allows 25% of sustainable discharge

Kathy Poling noted conversation with Matt Emeric towards what type of water source.

1) Percolation (All ground water is recharged by deep infiltration either stream or rain fall

2) Underground stream (which is regulated)

Mr. Holyman stated Tk5 (replacement well) is recharged by rainfall "percolation " of rainwater within a fractured system in the Fransician. It's clearly ground water, no stream source around it He made mention of the well statics as follows:

Unit 9 well; 12-½ gpm, maybe able to pump 20 gpm (more data as sequence pumping starts)
Tk2 from driller: 17-½ gpm (more data as sequence pumping starts)
Tk5: 50 gpm (fractured Fransician good discharged system)

Mr Hoymann states that 48 gpm is very realistic from tk5 (replacement well)
The Districts decision to the State Water Resource Control Board on the results findings would be:

- 1) The longer the test the more reliable the test is.
- 2) Noted dry rain fall on this testing period also that the county does allow extend testing with the accumulative of 6 inches of rain,

Mr Whitaker asked about existing Easement for tk5, Mr Acker stated Irish Beach has pre-existing easement. Also: Tk2 well is either on or close to an existing parcel that Irish Beach owns. Closest to Gordon Moores parcel and Charlie Acker stated Mr Gordon Moores would grant easement to parcel with certain minimal rights.

Kathy Poling made note of: District is not being asked to serve those customers, district is being asked of a planning agency if any problem to approve

Previous water plan was to secure 48 gpm from Mallo Pass.
Which the current Districts findings from the wells and the short term flow testing, this can be achieved from ground water resources at traction of the costs.

Mr. Holyman concludes the findings of ground water resources to secure 48 gpm.

Kathy Poling requests to send letter of intent to appear. not seconded

Motion to have a constraint of well production: Kathy Poling yes: Harley No, Whitaker no, Murray no, motion fails.

→ Don Harley Motion to approve abandonment: Judy Murray seconds

Role Call vote;

Don Harley eye, Judy Murray eye, Kathy Poling understands the reconsideration, Steve Whitaker eye, motion carries;

Motion;

→ The Irish Beach Water Districts approves the abandonment of the Mallo Pass permit 1622 if by December 1, 2008 the accumulative discharge of all three wells currently in operation is 60 gpm or more.

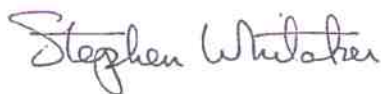
Next Meeting Agenda to discuss Mallo Pass assessment funds and assessment itself.

ADJOURNMENT:

Motion to adjourn: Poling yes, Whitaker yes, Harley yes, Murray yes: motion carries;

Assistance will be provided to Handicapped persons whom require it to participate in the meeting.

Respectfully submitted,



Steve Whitaker, President
Prepared by Annette Fromwiller

Attest:



EXHIBIT "O"

IRISH BEACH WATER DISTRICT
MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS
SATURDAY, January 10, 2009

- 1 **CALL TO ORDER AND ROLL CALL:** President Steve Whitaker called the regular meeting of the Irish Beach Water District Board of Directors to order at 10:03am at the Fire House in Irish Beach (Manchester). Present were Directors Poling, Jassowski, Harley, Whitaker and Murray. Public in attendance were: William Moores, Pauline Zamboni, Loretta Thompson, Marlyn Jassowski, Dorothy Engle, Al Thompson, Susanne Whitaker and Betty Winters. Staff in Attendance: Operations Manager Charlie Acker and Office Manager Annette Fromwiller
2. **APPROVAL MINUTES:** Approval of minutes 08-Nov-2008 and 22-Nov-2008 (TABLED)
3. **COMMUNICATION AND CORRESPONDENCE:** NA
4. **PUBLIC INPUT:** NA
5. **REPORTS**
 - Treasurer Reports on finances and expenditures:** Treasurer Murray stated report is delayed
 - Water Reports:** Operations Manager Charlie Acker reported some routine maintenance and minor leak issues and the under grounding of the power lines at Well #9 and that the fire hydrant project has been completed.
 - Safety Committee meeting minutes:** President Whitaker provided meeting minutes held on November 22, 2008 and December 16, 2008. The subjects covered were Drugs in the work place and Hand Safety
 - Other NTR
- 6 **PROJECTS:**
 - Status of fire hydrant project:** Operations Manager Charlie Acker reported on the final hydrant was installed on the "down" beach road where 1" pipe had to be replaced with 2" pipe and the project was completed.
 - Status of IBWD Well Drilling Project:** Operations Manager Charlie Acker the chemical samples from TK5 were sent in to Analytical Laboratories for testing
 - Status of Water Storage Facilities, i.e. potential new Tank #6.** Operations Manager Charlie Acker intends to contact Mr. David Wood for his assistance with plan review.
 - Consideration of a water conservation plan for the District:** NTR
 - Water conveyance issues:** NTR
 - Consideration of an accelerated tiered billing plan for water usage in Irish Beach:** NTR
- 7 **OLD BUSINESS**
 - A. **Letter to the Board from President Steve Whitaker.** President Whitaker stated that the purpose of his letter was to inform the Board that the letter of William Moores to Dorothy (Cong) dated October 25, 2008 contained a false statement concerning President Whitaker's interaction with Mendocino County Department of Planning and Building. It was suggested that the following policy be considered.

Letters and email messages received by Office Manager that deal with matters of substance, i.e. matters of Board Policy, should be returned to the sender with the request that a formal letter be sent to the Board of Directors.
 - B. **Status of Moores' project in Unit #8.** Director Poling requested that the deed be corrected with specifics as to what is being deeded to the District. All items need to be described in detail and the language of the deed needs to be *precise, correct and unambiguous*. Mr. William Moores request a resolution be written, which was denied until a new deed is submitted
 - C. **Consideration of abandonment of Mallo Pass Permit:** (Tabled) to Executive Session
 - D. **Consideration of transferring of funds collected by the Engineered Assessment** (Tabled) to executive session
 - E. **Status of State Water Resources Control Board Order Denying Petition for Extension of Time for Permit 15580(Application 21902)** The matter of license versus a permit was discussed at the meeting with Matthew L. Emrick, Operation Manager Charlie Acker and President Stephen Whitaker. Matt Emrick sent a petition for reconsideration to the State Water Resources Control Board in August 2008.

F. Consideration of drafting a new resolution or modifying old Resolution 95-4 pertaining to degrade the quality of waters of the state flowing through the Irish Beach Water District.

G. Consideration of recommendation of William Moores project GP 8-2006/ R 12-2006: The Board concluded that it needs legal advice before making a recommendation. There are several parts to this proposal. 1). Rezone several parcels: Application needs parcels to be properly identified as in Old Business 6(Nov 8 meeting) 2). Relocate existing plan density to other parcels in IBWD service area (i.e. "Inn Site") to be moved to Nichols Ranch. Applicant to submit additional information. President Whitaker to send (7. OLD BUSINESS) note to John Speka and obtain legal advice. Application needs the parcels to be properly identified as in Old Business 6A (Nov 8 meeting). 3). Construction of a permanent real estate vacation rental, real estate sales office, plus adequate parking space and relocate access road to "Inn Site" Parcels 131-110-04 & 36. Application needs parcels to be properly identified as in Old Business 6A (Nov 8 meeting) Director Whitaker moves to table this aspect of item 7G and the motion carries unanimously.

H. Consideration of a new resolution regarding well drilling within the boundaries of the Irish Beach Water District: NTR

8. NEW BUSINESS:

A. Policy 3100 Adoption of New Policy for Home Owners who have long term renters. Director Poling Suggest Office Manager Annette Fromwiller further evaluate situation and make alternate recommendations.

B. Policy 1060: District Web Site Content: (Fromwiller)(Tabled)

C. William Moores' request that "all" communications from the District to agencies processing plans or permits for development are approved by a Board vote prior to sending to the agencies involved. The Board request that Mr Moores send a formal request to the Board.

D. Discussion to appoint a negotiator to negotiate real property transactions. Director Poling made a motion that this needs to be revisited after executive session, motion carried.

ADJOURN TO EXECUTIVE SESSION (12:01p.m.)

Motion to go to executive session: President Stephen Whitaker moves to adjourns to executive(closed) session, the motion carries unanimously

Closed session for the purpose of discussing: Conferring with real property negotiations regarding easement for Well T5 and status of the water distribution system of the Nichols Ranch

RECONVENE TO OPEN SESSION:

Directors in attendance: Director Poling, Jassowski, Harley, President Whitaker and Murray.

Public in attendance: Pauline Zamboni, William Moores, Betty Winters, Dorothy Engle, Loretta Thompson, Al Thompson, Susanne Whitaker, Maryln Jassowski

Staff in Attendance: Operations Manager Charlie Acker and Office Manager Annette Fromwiller

Director Poling reported on Boards action taken in executive (closed) session.

The Board will ask Bartle Wells Associates as an alternate to Mallo Pass to review their engineering assessment findings that supported District Prop 218 vote and whether or not the Board can transfer all or part of the funds currently set aside for the Mallo Pass water and well development program. Director Poling moved to have an ad-hoc committee of two to direct Bartle and Wells on that project. Director Jassowski seconded, Director Harley voted aye, all were in favor, motion carries. Ad-Hoc committee of two Director Poling and President Whitaker.

The board recommends approval of the Mr. Moores Density transfer subject to the following condition: That the Irish Beach Water District will not accept or be responsible for any water distribution system construction on the Nichols Ranch that is not constructed by the district or under the districts supervision including but not restricted to engineered plans, and installation by a license "A" contractor.

The Chairman is requested to sign the approval with the above condition.

Operation Manager Charlie Acker will be the District's negotiator regarding acquisition for T5 well development. Status of water distribution system of the Nichols Ranch. Further Discussion on this will be made when the Board address's Old Business item 7G.

→ **OLD Business 7C Consideration of abandonment of Mallo Pass Permit.** The board approved the abandonment of Mallo Pass permit. Director Poling will notify Matthew L. Errick

ADJOURNMENT. Director Poling moved for adjournment. motion carried. meeting adjourned

Respectfully submitted,

Steve Whitaker, President
Prepared by Annette Fromwiller

Attest:

Secretary to the Board

EXHIBIT "P"



State Water Resources Control Board



Linda S. Adams
Secretary for
California Environmental Protection Agency

Division of Water Rights

1500 Street 14th Floor • Sacramento, California 95814 • 916 341 5366
P.O. Box 2000 • Sacramento, California 95812-2000
Tel: 916 341 5366 • www.waterrights.ca.gov

Arnold Schwarzenegger
Governor

MAR 11 2009

In Reply Refer
to:kdm:24364

CERTIFIED MAIL # 7004 2510 0003 9148 5913

Stephen Whitaker
Irish Beach Water District
15401 Forest View Road
P.O. Box 67
Manchester, CA 95459-0067

Dear Mr. Whitaker:

ORDER OF REVOCATION, PERMIT 16622 (APPLICATION 24364), OF IRISH BEACH WATER DISTRICT TO APPROPRIATE WATER FROM MALLO PASS CREEK, IN MENDOCINO COUNTY

On September 28, 2007, the State Water Resources Control Board (State Water Board), Division of Water Rights (Division) issued a Notice of Proposed Revocation for Permit 16622. The Permittee timely requested a hearing. A hearing was scheduled for February 26, 2009, but the hearing was cancelled on January 26, 2009 because the Permittee failed to submit a Notice of Intent to Appear (NOI) at the hearing. Pursuant to the revised Notice of Public Hearing dated December 31, 2008, the failure to submit an NOI is deemed withdrawal of the request for hearing. Therefore, the State Water Board may act on the proposed revocation without a hearing pursuant to Water Code section 1410.1. Accordingly, enclosed is an order revoking Permit 16622.

It is the Permittee's responsibility to remove or modify diversion works and impoundments to ensure that water subject to this revocation is not diverted and used. Unauthorized diversion and use of water is considered a trespass and subject to enforcement action under Water Code sections 1052 and 1831. Pursuant to Water Code section 1052, any diversion of water from the point(s) of diversion identified in this permit may be subject to administrative civil liability of up to \$500 per day without further notice. The State Water Board also may issue a cease and desist order in response to an unauthorized diversion or threatened unauthorized diversion pursuant to Water Code section 1831. It is the Permittee's responsibility to consult with the Department of Fish and Game, and the Regional Water Quality Control Board to ensure that removal of project facilities does not adversely affect a fishery or result in unregulated sediment discharge to a waterway. Permittee must also consult the Department of Water Resources, Division of Safety of Dams if a jurisdictional size dam will be removed or breached (dam height 15 feet or more, or reservoir volume 50 acre-feet or more). These agencies may require a permit or other approval prior to any construction activity.

California Environmental Protection Agency

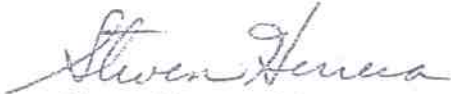
Stephen Whitaker
Irish Beach Water District

2

If diversions will be made under claim of riparian or pre-1914 water rights, diversions shall be documented by the filing of a Statement of Water Diversion and Use in accordance with Water Code sections 5100 through 5103.

Katherine Mrowka is the senior staff person currently assigned to this matter. Please contact Ms. Mrowka at (916) 341-5363 if you require further assistance.

Sincerely,



Steven Herrera, Manager
Water Rights Permitting Section

Enclosure

EXHIBIT "Q"

Irish Beach Water District

15401 Forest View Road

Post Office Box 67

Manchester, California 95459

Phone (707) 877-3275 Fax (707) 877-3275

July 5, 2007

Meredith J. Lintott, District Attorney
County of Mendocino
PO Box 1000
Ukiah, CA 95482

This letter is to confirm the following events associated with an illegal connection to the Irish Beach Water District distribution system:

I. On Thursday, June 21, 2007, the IBWD Operations Manager, Charlie Acker, discovered a direct connection between a District water line located at the southwest corner of Lot 48, Unit 1, APN 132-010-10 and an irrigation system extending approximately 300 yards to the north. According to IBWD records, APN 132-010-10 is jointly owned by Mendocino Coast Properties (75%) and William and Tona Moores (25%). Neither of these parties had requested that an IBWD meter be installed at this location.

II. The Sheriff's Office, County of Mendocino, was called and Sergeant Greg Stefani examined the connection and the irrigation line. Sergeant Stefani indicated that a report would be prepared and that the report number would be #007-1922. The connection was locked shut at about 2:00 PM on June 21, 2007 and the irrigation line was disconnected.

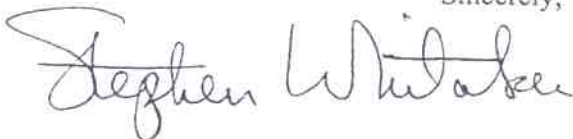
III. William M. Moores was contacted by Sergeant Stefani. That conversation, in addition to the communications between William M. Moores, Charlie Acker, and Dorothy Cong (IBWD Office Manager) indicate that William M. Moores was responsible for the illegal connection.

This action by William Moores constitutes theft of water from a public agency, i.e., the Irish Beach Water District is a California Special District. In addition, this action violated IBWD Ordinance No. 93-3 – Part 1 where one can find the following language:

Section 2.8 – TAMPERING WITH DISTRICT PROPERTY: No one, except an employee or representative of the Board, shall at any time in any manner operate the curb cocks or valves, main cocks, gates or valves of the District water system, or interfere with the meters or their connections, street mains, or other parts of the water system.

Other violations of the State Water Code may have occurred and I am confident that the District Attorney of Mendocino County will pursue this matter diligently. In doing so, I believe it is important to keep in mind Case # MC-TM-CR-NT-06-0072313-002 and the judgment issued on November 14, 2006 by Judge Lehan against William M. Moores.

Sincerely,



Stephen Whitaker, President
Board of Directors

cc. Sergeant Greg Stefani, Sheriff's Department, County of Mendocino
Adam Lindgren, Myers/Nave, Riback, Silver & Wilson

EXHIBIT "R"

Irish Beach Water District

15401 Forest View Road

Post Office Box 67

Manchester, California 95459

Phone (707) 877-3275 Fax (707) 877-3275

August 27, 2007

Meredith J. Lintott, District Attorney
County of Mendocino
PO Box 1000
Ukiah, CA 95482

Dear District Attorney Lintott:

In addition to the matter of theft that I described in my letter of July 5, 2007 (attached), the rules and ordinances of the Irish Beach Water District have recently been violated by William M. Moores in a manner that essentially consists of robbing the District of (1) a one-time fee of about \$4,000 in order to buy into the District, (2) an availability fee that amounts to \$57 per month, and (3) an assessment fee that amounts to \$194 per year.

In addition to violating the rules and ordinances of the Irish Beach Water District, it seems likely that sections of the State of California Water Code may have been violated since Mr. Moores has exported water from within the District to a location outside the District service area.

We continue to appreciate and defer to the expertise of your office in the prosecution of criminal matters. In order to assist you in pursuing this matter, I have discussed this issue briefly with our General Counsel, Adam Lindgren. Mr. Lindgren is of the opinion that diversion of water for use outside of the District is illegal under Jenison v. Redfield (1906) 149 Cal. 500 and other authority. Mr. Lindgren also informs me that the actions of Mr. Moores in diverting the IBWD's water and tampering with irrigation system connections

- are misdemeanor violations of California Penal Code section 624 which states "Every person who willfully breaks, digs up, obstructs, or injures any pipe or main for conducting water, or any works erected for supplying buildings with water, or any appurtenances or appendages connected thereto, is guilty of a misdemeanor"; and
- are misdemeanor violations of the District's regulations regarding water distribution under California Water Code section 35424; and
- constitute trespass under California Water Code section 1052.

The actions by Mr. Moores are criminal and must result in appropriate consequences to deter such behavior that is severely injuring IBWD and the other customers that IBWD serves.

The details associated with William M. Moores' most recent actions are described in the following paragraphs.

I. At about 10:00 AM on Thursday, July 5, 2007, the IBWD Operations Manager, Charlie Acker, noticed a flow of water on Highway One adjacent to the location

of a previously described illegal connection. Inspection of that area indicated that the previously discovered irrigation system (see my letter of July 5, 2007 and Figure 1) had been moved and connected to the residence of William M. Moores, 14740 Navarro Way, Manchester, CA 95459. See Figure 2 for a photograph of this connection and parts of the associated irrigation system.

II. Examination of the meter for the residence of William M. Moores indicated a flow rate of 16 gallons per minute. This is equivalent to 23,000 gallons per day, considerably more than the 300 gallons per day per connection for which the District is responsible. This flow of 23,000 gallons per day has been recorded on our electronic data logging system during the period from July 3 to July 5. Our total rate of production for the Irish Beach Water District at this time is about 46,000 gallons per day, thus Mr. Moores was using 50% of our resources (during a period of drought!) to irrigate property adjacent to his residence.

III. The flow of 23,000 gallons per day (July 3 to July 5) was being used to irrigate plants located in what is known as the Inn Site (APN 131-110-04). The Irish Beach Water Districted is committed to providing Mr. Moores with a connection to the Inn Site *when* the connection fee is paid. Until that fee, which amounts to about \$4,000 per connection, is paid, Mr. Moores has no right to use water from IBWD for any purpose associated with the Inn Site.

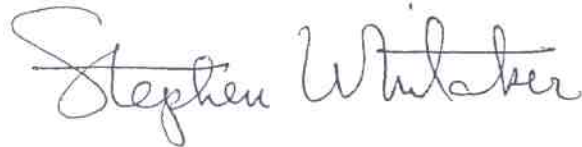
At about 11:00 AM on July 5, 2007, the connection between the irrigation system and Moores residence at 14740 Navarro Way, Manchester, CA 95459 was *closed* and later that day, the Office Manager, Dorothy Cong, informed Mr. Moores of this action. There is no way to lock the connection in the closed position, thus the District has no means to curtail this illegal use of water without locking the system shut at the meter to Moores' residence. This entire matter was discussed at the Board of Directors meeting on July 14, 2007 where it was concluded that I should write to the District Attorney asking for help with this matter. I believe that the following three actions are essential:

1. Stop William Moores from using water obtained at his residence for irrigating the Inn Site until the appropriate fees cited in paragraph one have been paid.
2. Impose some sort of punishment that would encourage Mr. Moores to cease and desist from this type of activity. If past behavior is any indication of future activities, a rather severe punishment will be required.
3. Require that the District be compensated for the time and effort required to attend to this matter. Employees of the District have spent time on this matter and it is entirely unjust for the rate payers to bear the expense of Mr. Moores actions.

Finally I would like to point out that I have been a full-time resident of Mendocino County since July, 2003 when I moved to Irish Beach from Davis, CA. During the past four years I have become aware of the difficulties associated with providing public services to a sparse population such as we have in Mendocino County. Other residents of the County are also aware of these difficulties and they take advantage of them on a regular basis knowing that uniform enforcement of laws is difficult in this situation. However, if the laws are not enforced uniformly, they are, by default, enforced unfairly. In the small community of Irish Beach there is an urgent need for uniform enforcement of County codes and regulations in addition to the enforcement of the laws

of the State of California. I believe that the matter under consideration adds up to more than the sum of the dollar amount. It adds up to the trust of the community in the County government. That trust, or the lack of it, is worth much more than \$4,000.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Whitaker". The signature is written in black ink and is positioned centrally on the page.

Stephen Whitaker, President
Board of Directors

cc. Adam Lindgren (Myers/Nave, Riback, Silver & Wilson); Dorothy Cong (IBWD);
Charlie Acker (IBWD)

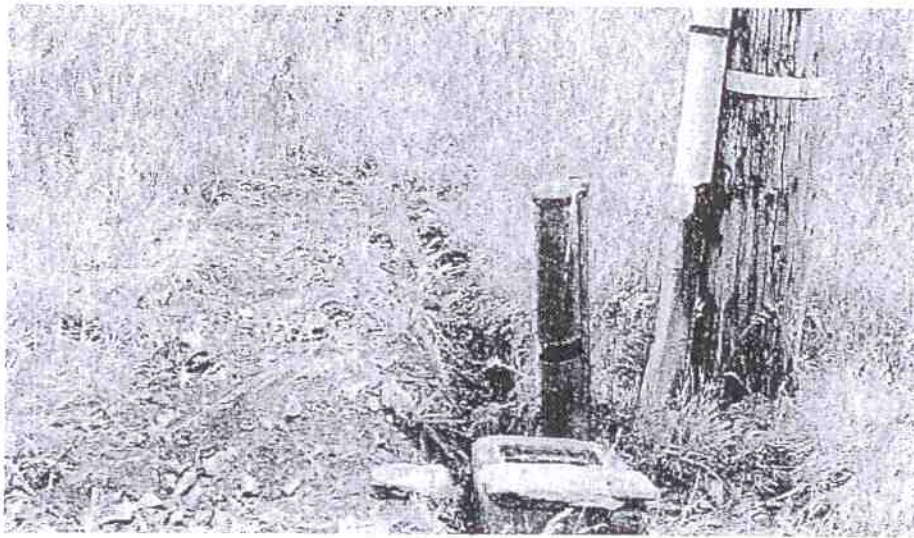
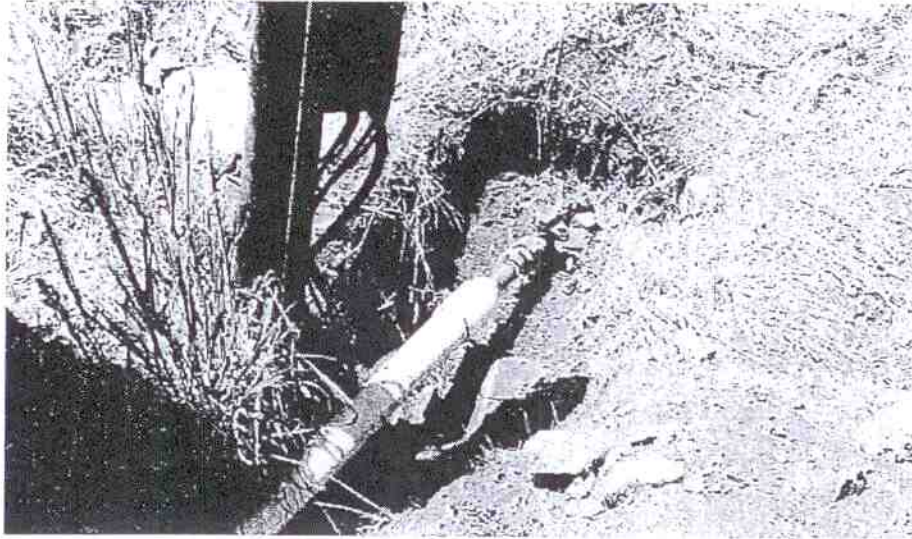


Figure 1. Illegal Connection to the Irish Beach Water District on June 21, 2007 and absence of the connection on July 5, 2007

Top Figure: The large, white plastic pipe represents an illegal connection to the Irish Beach Water District at APN 132-010-10 in the Irish Beach subdivision. Photograph taken by Stephen Whitaker on June 21, 2007 looking west.

Bottom Figure: Same location as the top figure. The large, white plastic pipe has been removed. Photograph taken by Stephen Whitaker on July 5, 2007 looking east.

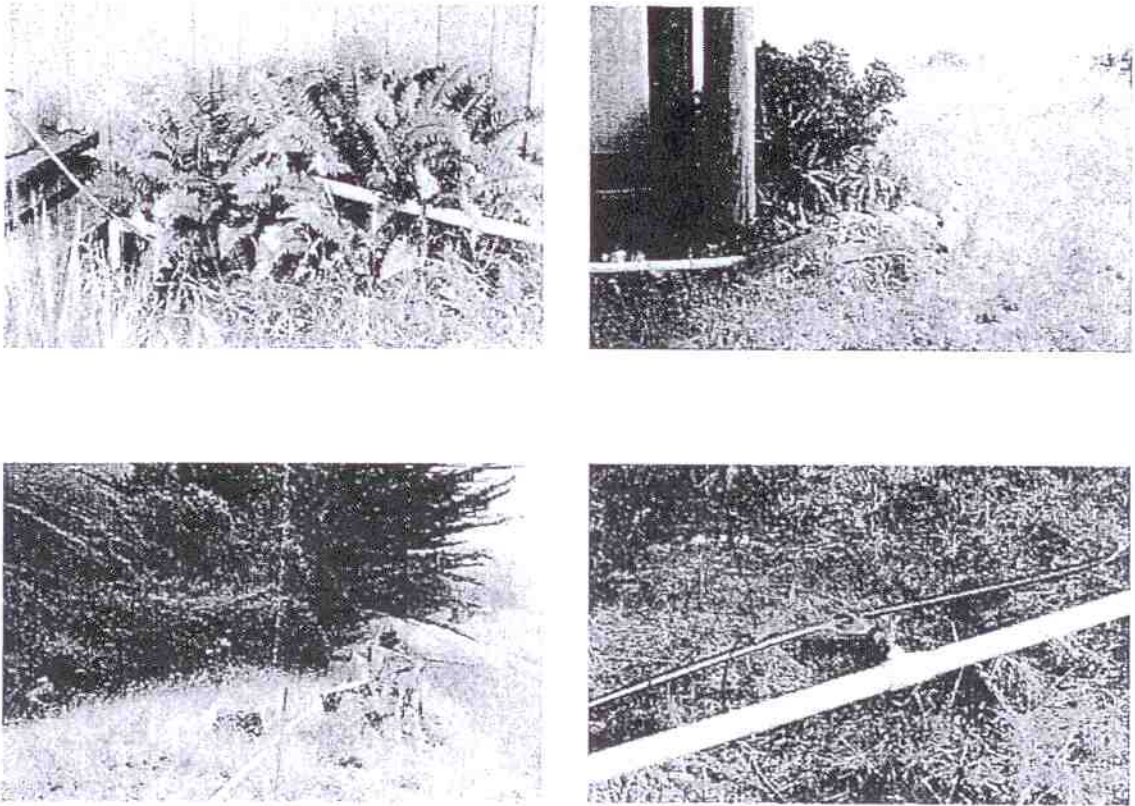


Figure 2. Irrigation line connected to 14740 Navarro Way, Manchester, CA 95459 and extension of the line

Upper Left Figure: The large, white plastic pipe connected to the Moores' residence, 14740 Navarro Way, Manchester, CA 95459. Photograph taken by Stephen Whitaker, July 5, 2007 looking northwest.

Upper Right Figure: The large, white plastic pipe, artfully camouflaged with roofing shingles, is directed north and then east leading to the irrigation system discovered on June 21, 2007. Photograph taken by Stephen Whitaker, July 5, 2007 looking northeast.

Lower Left Figure: The large, white plastic pipe in the same location as observed on June 21, 2007, running parallel to Highway One which is about twenty yards to the east of the irrigation line. Water leak in the system can be seen as a narrow jet of water adjacent to the stake with the red top. Photograph taken by Stephen Whitaker, July 5, 2007 looking south.

Lower Right Figure: Significant leak in the irrigation system. Photograph taken by Stephen Whitaker, July 5, 2007 looking southeast.