

Office of the Davis County Recorder



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Recorder
Richard T. Maughan

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DEED OF CONSERVATION EASEMENT

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THIS DEED OF CONSERVATION EASEMENT ("Easement"), made as of this 1st day of July, 2009, by **UTAH STATE UNIVERSITY ("University")** whose address is Attn: Vice President for Business and Finance, 1445 Old Main Hill, Logan Utah 84322-1445 acting as principal for the Utah Agricultural Experiment Station (UAES) of 1445 Old Main Hill, Logan Utah 84322-1445 and its programmatic unit known as the Utah Botanical Center (UBC), which is located in Davis County, State of Utah and has management and operational responsibility for the University owned land described herein that is located in Kaysville, Utah, and the **UTAH DEPARTMENT OF NATURAL RESOURCES, DIVISION OF WILDLIFE RESOURCES ("Division")** whose address is 1594 West North Temple, Suite 2110, Salt Lake City, Utah 84114, collectively referred to in this Easement as the "Parties";

WITNESSETH:

WHEREAS, the purpose of this conservation easement is to protect or enhance forever the wildlife habitat, and open space of the real property described and designated herein as the Pond and Southwest Buffer Property;

WHEREAS, the University is the owner of certain areas of land on which are located four (4) bodies of water that are commonly known as the Kaysville Ponds and a strip of land being referred to herein as the Southwest Buffer area located between the two larger south ponds and the I -15 highway corridor running north and south, which together these properties are respectively highlighted and labeled on the attached Exhibit A and are respectively drawn and described by metes and bounds on the attached Exhibit B, along with public parking access areas, and jointly referred to hereinafter, for purposes of this Easement, as the "Pond and Southwest Buffer Property";

WHEREAS, the University owns much of the land immediately bordering the Pond and Southwest Buffer Property, as also shown on Exhibit A, that is all managed by the UBC;

WHEREAS, the Pond and Southwest Buffer Property has significant wildlife habitat values, ecological and open space values as recognized in the Utah Land Conservation Easement Act, (Utah Code Ann. §§ 57-18-1 to 57-18-7); and the University intends to convey this Easement under the statutory provisions of that Act and other applicable provisions of Utah statutory and common law; and to enhance the mutual commitments made between the University and Division in the Cooperative Agreement signed by and between the parties in 2003, in which the University committed to "perpetually maintain public access for fishing at all ponds in the project", which in this easement applies to all of the land defined above and referred to hereinafter as the Pond and Southwest Buffer Property;

WHEREAS, the Pond and Southwest Buffer Property constitutes a valuable element of the surrounding habitat and ecosystem, defined herein as a geographical area of a variable size where plants, animals, the landscape and the climate all interact together, and the ecosystem's ecological and open space values, including flora, fauna, and soils; and the Pond and Southwest Buffer Property provides significant wildlife habitat including year round fishing, educational opportunities, and open space values; and the maintenance of such natural habitat helps support wildlife populations in the ecosystem. The habitat, ecological, wildlife, water resource, and open

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space values ("Conservation Values") are worthy of conservation and of great importance to the University, the Division, and the State of Utah;

WHEREAS, the University desires and intends that the Conservation Values of the Pond and Southwest Buffer Property be conserved and maintained by the continuation, initiation, or introduction of activities on the Pond and Southwest Buffer Property that will not compromise the Conservation Values, including such activities as gardening, farming, hunting, fishing and educational uses ("Primary Uses");

WHEREAS, the University, as the fee owner of the Pond and Southwest Buffer Property, holds the right to identify, conserve, enhance, and protect in perpetuity the Conservation Values of the Pond and Southwest Buffer Property;

WHEREAS, the University desires and intends to transfer certain of such rights to the Division, provided the University's right to manage and use the Pond and Southwest Buffer Property for the Primary Uses is also protected, perpetuated and conserved in the manner set forth in this Easement;

WHEREAS, the State of Utah has recognized the importance of both public and private efforts to conserve and protect the state's natural resources by the enactment of Utah Code Ann. §§ 57-18-1 to 57-18-7;

WHEREAS, the Division undertakes the responsibility to conserve and protect areas of significant wildlife habitat for ecological, scientific, recreational, and educational purposes; and the Division is a non-profit, tax exempt organization under Section 501(c)(3) of the Internal Revenue Code, and a qualified conservation easement holder under Utah Code Ann. § 57-18-3; and the Division is a qualified organization under Section 170(h)(3) of the Internal Revenue Code to receive and hold conservation easements; and

WHEREAS, the parties desire that any interpretation of this Easement be construed to further the conservation, protection, and enhancement of the Pond and Southwest Buffer Property's Conservation Values and of the University's right to manage and use the Pond and Southwest Buffer Property for the Primary Uses.

NOW, THEREFORE in consideration of the mutual covenants contained herein, and pursuant to Utah Code Ann. §§ 57-18-1 to 57-18-7, and other applicable provisions of Utah statutory and common law and the Cooperative Agreement completed by the Parties in 2003, and the University's subsequent and continuing efforts to develop a perpetual Urban or Community Fishery within the ponds in conjunction with Divisions efforts to stock the ponds and monitor fishing conditions, The University hereby conveys and warrants to the Division this perpetual Easement over the Pond and Southwest Buffer Property. The scope of this Easement is set forth in this deed.

SECTION I - RIGHTS OF THE DIVISION

As defined and explained above, the Pond and Southwest Buffer Property owned by the University which will be encumbered by this Conservation Easement is described respectively in

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Exhibit A and Exhibit B. The rights conveyed by the University to the Division to perpetually maintain the Conservation Values of the Pond and Southwest Buffer Property in this Easement include the following:

A. Identification and Protection. The Division has the right to identify, conserve and protect in perpetuity, and to enhance by mutual agreement the Conservation Values on the Pond and Southwest Buffer Property in the manner set forth in this Easement, subject to the University's reserved rights in this Easement.

B. Access. The general public is hereby granted pedestrian access by and through the Division for using the Kaysville Ponds and such access is limited to day use only, i.e., from dawn to dusk under this Easement on an area within a thirty foot (30') corridor immediately adjoining the shoreline of the Ponds, as drawn and labeled and otherwise described on Exhibit C, and as otherwise reflected on open trails and areas indicated by existing directions and signage in place by the University and any to be developed by the University and/or the Division based on mutual consultation and coordination, for the purpose of providing public access to the Kaysville Ponds, Southwest Buffer Property and public parking access ("Access Easement"). The general public parking access area that serves the Pond and Southwest Buffer Property is labeled, drawn, highlighted and described on Exhibit C and consists of the existing parking lot shown just north of the UBC's "Utah House" and located on the USU land between the Pond and Southwest Buffer Property and 50 West Street. The Division has the right to enter upon the Pond and Southwest Buffer Property to inspect, monitor, and enforce compliance with this Easement at reasonable times. The Division also has the right to enter upon the Pond and Southwest Buffer Property with advance notice and permission from the University or the University's agent to observe or study the natural resources protected by this Easement in a manner that will not unreasonably interfere with the use of the Pond and Southwest Buffer Property by the University.

Pedestrian access shall commence at the parking lot described in Exhibit C and connect to all trails and 30' access corridors around subject ponds described in Exhibit C.

The Division shall have the unilateral right of immediate entry upon the Pond and Southwest Buffer Property if, in the Division's sole judgment, such entry is necessary to prevent immediate damage or destruction to the Conservation Values of this Easement. The Division has the right to enter upon the Pond and Southwest Buffer Property to inspect the condition of the fish and the fishery and, in appropriate vehicles, enter on the Pond and Southwest Buffer Property's existing roads, between the ponds to stock the ponds with fish.

C. Conservation, Enforcement, Injunction, and Restoration. The Division has the right to prevent any activity on, or use of the Pond and Southwest Buffer Property which is inconsistent with this Easement. The Division is entitled to take any legal action to prevent such activity, including but not limited to, obtaining an injunction in a court of competent jurisdiction. The Division further has the right to enforce the reasonable restoration of such areas or features of the Pond and Southwest Buffer Property damaged or impaired by any activities or omissions to prevent such activities inconsistent with this Easement. The Division and the University each shall be entitled to recover its reasonable attorney's fees in enforcing its rights under this Easement. Both parties mutually acknowledge that they are "sister" entities of the State of Utah; therefore legal action will only be taken after all other reasonable possibilities have been exhausted to resolved any significant difference should such arrive.

D. Signs. The Division has the right to place signs on the Pond and Southwest Buffer Property which identify the Pond and Southwest Buffer Property as being protected by this Easement. The number and location of the signs are subject to the University's approval, which will not be unreasonably withheld.

E. Fish Management. The Division has the full right to manage the fish populations. This includes treating the ponds with Rotenone, weed control management, etc.

SECTION II- GENERAL EFFECT OF EASEMENT

A. Perpetual Restrictions. This Easement shall run with and encumber the title to the Pond and Southwest Buffer Property in perpetuity and shall bind the University and all future owners, assigns, and tenants of the Pond and Southwest Buffer Property.

B. Permitted Uses in General. This Easement shall confine the use of the Pond and Southwest Buffer Property to activities such as the Primary Uses or Permitted Uses, consistent with the purposes and terms of this Easement. Any activity on or use of the Pond and Southwest Buffer Property inconsistent with the purposes or terms of this Easement or detrimental to the Conservation Values expressed in this Easement is expressly prohibited, with the exception that the University can disturb the Pond and Southwest Buffer Property. Specifically, the University is hereby allowed to construct more pedestrian trails around the ponds and a planned boardwalk that will extend over the water for fishing and educational purposes. The Primary Uses implemented by the University, as necessary and reasonable consistent with the Primary Uses of the property, must be consistent with and complementary to the Conservation Values expressed herein, such as enhancing and/or maintaining such values within the existing rights herein granted.

C. Dedication of Pond and Southwest Buffer Property. Pursuant to the terms of Utah Code Ann. §§ 57-18-1 to 57-18-7, the Pond and Southwest Buffer Property conserved by this Easement, as described in Exhibit A and B, is declared open space and natural land, and may not be converted or directed to any uses other than those provided in this Easement.

SECTION III - PERMITTED USES AND PRACTICES

The following uses and practices, while not an exhaustive recital of permitted uses and practices, are consistent with this Easement. The uses and practices described in this section may not be precluded or prevented by this Easement, except under the following circumstances. The uses and practices may be precluded when this Easement requires the Division's prior approval of an activity as provided in Section IV of this Easement or when such uses or practices are conducted or allowed to take place in a manner which violates the terms of this Easement, poses a serious threat of material damage to the Conservation Values protected by this Easement, or constitutes a prohibited use or practice as set forth in Section V of this Easement.

A. Residential or Recreational Facilities. There will be no residential or public recreational development on the Pond and Southwest Buffer Property other than access provided to fulfill the purposes described above in Sub-Section B of Section II.

Replacement or repair of existing fences within the Pond and Southwest Buffer Property boundaries and construction of new fences on the Pond and Southwest Buffer Property's exterior boundary shall be constructed in such a manner and with such materials as not to unduly endanger wildlife safety or to materially inhibit wildlife movement. The Division's prior written approval, consistent with Section IV of this Easement, must be obtained prior to replacing, repairing, or constructing any fencing on the Pond and Southwest Buffer Property that unduly endangers wildlife safety or that materially inhibits wildlife movement.

B. Subdivision. The Pond and Southwest Buffer Property shall not be subdivided or otherwise partitioned without the prior written approval of the Division. The terms of this deed shall apply to any subdivided parcels authorized by the Division.

C. Livestock Grazing. Good range stewardship and proper management of domestic livestock are integral to the conservation goals of this Easement. Livestock grazing shall not materially degrade or deteriorate the range and aquatic resources and wildlife and riparian habitats. If a General Management Plan for the Pond and Southwest Buffer Property is prepared, it shall be prepared, completed and implemented by the Division, and will be incorporated into this Easement as Exhibit D. A GMP may be modified or created following the execution of this easement where changing needs and uses precipitate grazing practice regulation to ensure compliance with the terms of this Easement and protection of the Conservation Values identified therein. The GMP will consider the long-term health of the range resource and wildlife habitat. The GMP will describe appropriate use levels, seasons of use, kinds of livestock that will be grazing and necessary management practices. The GMP must meet all applicable state and federal laws, policies, guidelines, and regulations.

D. Hunting and Fishing. Hunting, trapping and fishing are permitted on the Pond and Southwest Buffer Property only to the extent such activities are consistent with state and federal laws and regulations. The intent of this provision is to permit levels of hunting, trapping and/or fishing which are not detrimental to sustainable levels of wildlife and fish populations. The parties agree and acknowledge that hunting may be a desirable management tool to balance wildlife numbers with range and habitat condition.

E. Water Resources. The University may improve water resources on the Pond and Southwest Buffer Property if such improvement is necessary or beneficial to grazing livestock, wildlife, or fisheries on the Pond and Southwest Buffer Property. Such improvements must be consistent with the terms of this Easement and the conservation values protected therein, as well as comply with all applicable laws and regulations. Improvements such as water tank installation are permitted provided that the improvement does not result in any detrimental effects on fish, amphibians, aquatic life, wildlife, their habitat, or their passage.

Upon approval by the Division, as required in Section IV of this Easement, the University may also carry out activities to restore and enhance aquatic, terrestrial, and wetland habitat for fish and wildlife use and production. Such activities may include stream bank stabilization, improvement to the quality and quantity of water available; provided such activities are conducted in a manner consistent with accepted waterway stabilization, rehabilitation, and enhancement methods, state and federal laws and regulations, and the terms and intent of this Easement.

The appurtenant water rights and water shares identified as 31-2800 and thirty (30) shares of Class C stock in Haight's Creek Irrigation Company shall not be sold or severed or moved off the

Pond Property. The University shall retain and reserve the rights to the water rights and water shares for the present and future use on the Pond and Southwest Buffer Property. The University shall not change the point of diversion or otherwise separate such water rights or shares of water from the pond property to the extent such changes diminish natural and artificial flows on the Pond and Southwest Buffer Property.

Water usage or distribution on the Pond and Southwest Buffer Property shall not be altered in such a manner as to compromise the terms of this Easement or the Conservation Values protected therein, as identified in the Baseline Inventory. (Appurtenant water shall not be severed from the Pond Property and Southwest Buffer Property.)

F. Agrichemicals and Biological Controls. The University may use agrichemicals and biological controls on the Pond and Southwest Buffer Property only after consultation with the Division. The use of such agents shall be conducted in a manner that will prevent adverse effects on the natural values of the Pond and Southwest Buffer Property, especially fish habitat on the Pond and Southwest Buffer Property, and to avoid any impairment of the natural ecosystems and their processes.

G. Predators. The University may use legal methods to control predatory and problem animals as permitted by state and federal laws.

H. Riparian Management. Maintenance of a healthy riparian corridor is integral to wildlife, wildlife habitat, and water quality. As such, all activities affecting the riparian corridor will be conducted in a manner that maintains long term riparian health and sustains and perpetuates the mix of naturally occurring species in representative ages and group sizes, in accordance with best management practices. Consistent with these recognitions, the University may cut or prune trees and brush, which constitute a hazard to persons, the Pond and Southwest Buffer Property, or roads.

Activities within the riparian corridor will be conducted with the approval of the Division. If the Division prepares and implements a General Management Plan ("GMP" see appendix ___), the GMP will encompass the long term management objectives for the riparian corridor which will include providing healthy fish habitat, perpetuating healthy riparian conditions, and abating erosion.

I. Residual Rights. Except as expressly limited by this Easement, the University may exercise and enjoy all rights as owner of the Pond and Southwest Buffer Property, including the right to use the Pond and Southwest Buffer Property for any purpose not inconsistent with this Easement.

SECTION IV - PRIOR APPROVAL OF ACTIONS BY DIVISION

If any provision of this Easement requires Grantor to obtain the Division's approval prior to performing any act or undertaking any enterprise, Grantor shall not perform that act or undertake that enterprise until the notice and approval provisions of this Section have been fully satisfied. Nothing in this Section shall in any way prohibit or limit the Division's ability to obtain writs or injunctive relief relating to any violation of this Easement.

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A. Grantor's Written Notice. Prior to the commencement of any activity, use or enterprise which requires the Division's approval, Grantor will first notify the Division in writing of the proposed activity, use or enterprise. The notice must fully inform the Division of all material aspects of the proposed activity, use or enterprise. Grantor will send such notices to the Division by registered or certified mail, return receipt requested, addressed to the Utah Division of Wildlife Resources at P.O. Box 146301, 1594 West North Temple, Salt Lake City, Utah 84114-6301, Attention: Habitat Section, or to such other address as the Division may designate in writing.

B. Division's Response. The Division shall have forty five (45) days from the date such notice is received (as indicated by the registered or certified return receipt) to review the proposed activity, use, or enterprise and to notify Grantor of any objections it may have to the activity, use, or enterprise. The objections, if any, shall be based upon the Division's opinion that the proposed activity, use or enterprise is likely to cause material damage to the Property's Conservation Values or is otherwise inconsistent with the purpose and/or provisions of this Easement. If, in the Division's judgment, the proposal presented by Grantor can be modified to avoid material damage to the Conservation Values and otherwise comply with the purpose and provisions of this Easement, then the response shall inform Grantor how the proposed activity, use or enterprise may be modified to conform with this Easement. Except as provided in Subsection C of this Section, Grantor may commence the proposed activity, use, or enterprise only after it receives the Division's express written approval, and only in the manner explicitly proposed by the Grantor and approved by the Division. The Division will send such response to Grantor by registered or certified mail, return receipt requested, addressed to Grantor at Utah State University, Office of Vice President for Business and Finance, 1445 Old Main Hill, Logan, UT 84322-1445, or to such other address as Grantor may designate in writing.

C. Division's Failure to Respond. If the Division fails to post its response to a proposal presented by Grantor within forty five (45) days after it receives the proposal by registered or certified mail, or within forty five (45) days after the Division has received adequate information to evaluate the proposed activity, whichever is later, then the proposed activity, use or enterprise shall be deemed consistent with the terms of this Easement, and the Division will have no further right to object to the activity, use or enterprise described in the proposal. The forty five (45) day period shall not begin to run for purposes of this paragraph until such time the Division has received adequate information from Grantor to effectively evaluate the proposed activity. In the event the Division requires additional information to evaluate the proposed activity, the Division shall request the information from Grantor as soon as practicable and in any case not later than 45 days after the receipt of the notice of the proposed activity.

SECTION V - PROHIBITED USES AND PRACTICES

Any activity on or use of the Pond and Southwest Buffer Property inconsistent with the purposes of this Conservation Easement and which is likely to cause material damage to the Conservation Values is expressly prohibited. The University agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are explicitly deemed inconsistent with the purposes of this Easement, and shall be prohibited.

A. Commercial Facilities and Activities. The University will not establish or conduct any commercial or industrial facilities or activities on the Pond and Southwest Buffer Property

(other than those necessary or beneficial in the operation or use of the Pond and Southwest Buffer Property expressly permitted by this Easement), including but not limited to any restaurant, night club, campground, trailer park, bed and breakfast, motel, hotel, lodge, swimming pool, snowmobiling, skiing, gas station, retail outlet or facility for the manufacture or distribution of any product.

B. Game Farming or Game Farm Animals. The University will not construct or operate a game farm on the Pond and Southwest Buffer Property, nor will the University raise or hold game farm animals on the Pond and Southwest Buffer Property. Game farm animals include game farm animals regulated or prohibited by the Utah Legislature, the Division of Wildlife Resources, or the Department of Agriculture and Food.

C. Wildlife Disturbance or Harassment. Harassment of wildlife on the Pond and Southwest Buffer Property by people, vehicles or domestic animals is prohibited.

D. Alteration of Watercourses and Topography. The University will not change, disturb, alter, excavate, or impair any watercourse or wetland or the topography of the ground on the Pond and Southwest Buffer Property, except as expressly permitted by Section III, Subsection C of this Easement.

E. Non-native Species. The University will not introduce into the general area of the Pond and Southwest Buffer Property any non-native plant or animal species other than those generally accepted for ranching, farming, residential landscaping and domestic gardening within the residential lot, except as provided for in Section III, Subsection H of this Easement.

F. Subdivision. The University does not have the right nor will any attempt be made to divide, subdivide, or take any action which creates an actual or *de facto* subdivision of the Pond and Southwest Buffer Property.

G. Construction. The University will not construct any structures or facilities on the Pond and Southwest Buffer Property except as specifically provided for in Section III, Subsections A and B.

H. Roads. The University will not construct any new roads except as specifically provided for in Section III, Subsection A and except for University being allowed to complete the road as planned now and partially constructed to serve the Wetlands Discovery Center on the west side of Pond 2 and shown on Exhibit C. Any new road construction requires the prior approval of the Division, as provided in Section IV of this Easement. Any new road approved by the Division and constructed for temporary use will be reclaimed and restored to its original condition within six (6) months following discontinued use.

I. Off-Road Vehicles. The University will not use vehicles off the existing roads and travel ways in a manner which may result in; 1) significant soil erosion or compaction, 2) adverse impacts to the natural appearance of the Pond and Southwest Buffer Property, 3) interference with vegetation, or 4) interference with the natural habitats of animal species occurring on the Pond and Southwest Buffer Property.

J. Commercial Feed Lot. The University will not establish or maintain any commercial feed lot on the Pond and Southwest Buffer Property. For purposes of this Easement,

a commercial feed lot is defined as a permanently constructed, confined area or facility, within which the land is not grazed or cropped annually, used for purposes of engaging in the business of receiving and feeding livestock for hire.

K. Dumping. Trash, debris, ashes, sawdust, and other non-compostable refuse may not be dumped or otherwise disposed of on the Pond and Southwest Buffer Property, except that generated by normal ranching operations, and as permitted by applicable state and federal laws.

L. Utilities. Additional utility structures and systems are prohibited, unless such structures or systems are necessary for permitted ranching operations or residential use. Absent the Division's prior approval as required in Section IV of this Easement, any additional permitted utility structures or systems must be buried and the disturbed area restored.

M. Mineral Activities. Exploration or extraction of oil, gas, rock, gravel, sand, minerals, artifacts, or other materials found in, on, or under the Pond and Southwest Buffer Property is prohibited by open-pit or surface mining methods. No sub-surface exploration or extraction of oil, gas, rock, gravel, sand, minerals, artifacts, or other materials (including the lease, sale, or other disposition of the rights to such materials) may impair or destroy the Pond and Southwest Buffer Property's Conservation Values. No mineral activities inconsistent with §170(h)(5)(B) of the Internal Revenue Code are permitted.

N. Timber Harvesting. The University does not have the right to harvest timber on the Pond and Southwest Buffer Property except as specifically allowed in Section III, Subsection H.

O. Raptor Nests. The University will not move or destroy any known or readily identifiable raptor nest at any time, regardless of its active/inactive or occupied/unoccupied status. The University will not cut or disturb any trees or other vegetation within 300 feet of any known or readily identifiable active raptor nest during the nesting season, or remove any crown trees or over story vegetation within 300 feet of any known or readily identifiable active raptor nest at any time. However, as specifically allowed in Section III, Subsection J, diseased trees not containing a raptor nest may be cut down and removed during the non-nesting season to abate infestations.

P. Billboards. The University will not construct, maintain, or erect any commercial signs or billboards on the Pond and Southwest Buffer Property. Small signs may be displayed, however, to advertise the Pond and Southwest Buffer Property for sale, to identify the Pond and Southwest Buffer Property owner, to post the Pond and Southwest Buffer Property as private, or to post the Pond and Southwest Buffer Property as protected by this Easement.

Q. Aircraft Facilities. The University will not construct or erect any aircraft facilities or aircraft landing facilities on the Pond and Southwest Buffer Property.

R. Cultivation or Farming. Additional sod busting is prohibited. Sod busting may only occur on those lands identified as cultivated or farmed lands in the Baseline Inventory referred to in Section X.

SECTION VI - BREACH, RESTORATION, AND REMEDIES

A. Breach and Restoration. Where the Division becomes aware of a violation or potential violation of any restriction contained in this Easement, or becomes aware of any damage or potential damage to the Conservation Values associated with the Pond and Southwest Buffer Property, whether precipitated by the University or by a third party, the Division may notify University The University in writing of such violation, potential violation, damage or potential damage. Upon University's receipt of such notice, University agrees to immediately take action to prevent or stop the activity which potentially or actually violates the terms or intent of this Easement.

The University shall have thirty (30) days after receipt of such notice to undertake actions, including restoration of the Pond and Southwest Buffer Property, that are reasonably calculated to swiftly correct the conditions caused by such violation. If the University fails to take such corrective action, the Division may undertake appropriate action, including legal action, to effect such corrections. The cost of such corrections, including the Division's expenses, court costs, and legal fees, shall be paid by the University. In the event the University is found not in violation of this Easement, then the University's legal fees shall be paid by the Division.

B. Injunctive and Other Relief. In the event the University undertakes or causes to be undertaken any activity on the Pond and Southwest Buffer Property that requires the Division's prior approval and such approval is not obtained consistent with Section IV of this Easement, or where the University undertakes or causes to be undertaken any activity in violation or potential violation of the terms of this Easement; the Division shall have the right to obtain injunctive relief or writs from courts of competent jurisdiction to stop any unauthorized activities and/or force the restoration of that portion of the Pond and Southwest Buffer Property affected by such activity to a similar or equivalent condition that existed prior to the unauthorized activity. Such restoration may include, but is not limited to, restoring soils, replanting suitable native vegetation, and/or taking such other action as the Division deems necessary to achieve restoration. In such case, the costs of restoration and litigation, including reasonable attorney's fees, shall be borne by the University or those of its successors or assigns against whom a judgment is entered. In the event a judgment is entered against the Division in an effort to seek injunctive relief or restoration and the University is held not to be in violation of this Easement, the Division shall pay the University's costs of litigation, including reasonable attorney's fees.

C. Actual or Threatened Non-Compliance. The University acknowledges that actual or threatened instances of non-compliance under this Easement constitute immediate and irreparable harm. The Division is entitled to invoke the equitable jurisdiction of any court to enforce this Easement.

D. Cumulative Remedies. The Division's remedies set forth in this Easement are cumulative. Any, or all, of the remedies may be invoked by the Division if there is an actual or threatened violation of this Easement.

E. Delay in Enforcement. A delay in enforcement shall not be construed as a waiver of the Division's right to enforce the terms of this Easement.

SECTION VII - COSTS AND TAXES

The University retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Pond and Southwest Buffer Property, including responsibility for the control of noxious weeds in accordance with all applicable Utah laws. The University shall pay any and all lawful taxes, assessments, fees, and charges levied by competent authority on the Pond and Southwest Buffer Property.

SECTION VIII - INDEMNITY

The University agrees to bear all costs of operation, upkeep and maintenance of the Pond and Southwest Buffer Property, and agrees to indemnify the Division against all claims and obligations arising from such operation, upkeep, and maintenance activities. The University also agrees to defend and indemnify the Division against obligations arising from past, present or future dumping of hazardous materials on the Pond and Southwest Buffer Property, and any obligations associated with their cleanup or containment. It is recognized by both Parties that insurance coverage of both entities is provided through the Utah State Division of the Utah Risk Management Fund (SDRM) or its successor and determinations by the SDRM will be final. Nothing contained herein shall be construed as waiving immunity, the monetary damage limitations, or any other provision set forth in the Utah Governmental Immunity Act, Utah Code §§ 63G-7-101 through 63G-7-904.

SECTION IX - ASSIGNMENT OF EASEMENT

The Division may not transfer or assign its interest in the Pond and Southwest Buffer Property created by this Easement except to a "qualified organization" (within the meaning of Section 170(h) (3) of the Internal Revenue Code) which is organized or operated primarily or substantially for one or more of the conservation purposes specified in Section 170(h) (4) (a) of said Code. Any such qualified organization shall agree to enforce the conservation purposes protected by this Easement.

SECTION X - BASELINE DATA

The parties acknowledge that an inventory of baseline data relating to the Pond and Southwest Buffer Property has been completed by competent professionals familiar with the Pond and Southwest Buffer Property. Copies of this inventory of baseline data are on file in the Divisions' Salt Lake City, Utah offices. The parties acknowledge that this collection of baseline data contains an accurate representation of the Pond and Southwest Buffer Property's condition and natural resources as of the date of the execution of this Easement in accordance with Treasury Regulation 1.170A-14(g)(5)(I).

Notwithstanding the foregoing, should a future controversy arise over the biological and/or physical condition of the Pond and Southwest Buffer Property, the parties may use all relevant documents, surveys, reports and other information to assist in resolving the controversy.

If range or habitat conditions significantly improve on the Pond and Southwest Buffer Property, the parties may agree to prepare an updated inventory of baseline data to document the improved conditions. The updated inventory of baseline data must be approved in writing by the

parties. Upon approval, the updated inventory of baseline data will be used as the baseline for future monitoring.

SECTION XI - EXTINGUISHMENT OF DEVELOPMENT RIGHTS

The University hereby acknowledges the extinguishment of all development rights associated with the Pond and Southwest Buffer Property, except those specifically reserved herein. The University agrees that all rights or interests in such development rights are terminated and extinguished, and may not be used on or transferred to any portion of the Pond and Southwest Buffer Property as it now or hereafter may be described, or to any other adjacent Pond and Southwest Buffer Property, nor used for the purpose of calculating permissible lot yield or density of the Pond and Southwest Buffer Property or any other Pond and Southwest Buffer Property with regard to any land use or zoning which affects, or may affect, the Pond and Southwest Buffer Property.

SECTION XII - SUBSEQUENT SALE, EXCHANGE, OR INVOLUNTARY CONVERSION

The University and the Division agree that the conveyance of this Easement creates a Pond and Southwest Buffer Property right immediately vested in the Division. The Division's Pond and Southwest Buffer Property right in this Easement shall be based on the condition and improvements on the Pond and Southwest Buffer Property at the time the Easement is established, and this condition shall be documented as referred to in Section X, above. For purposes of this Section, the Pond and Southwest Buffer Property right shall be deemed to have a fair market value at least equal to the proportionate value this Easement bears to the entire value of the Pond and Southwest Buffer Property as a whole at the time of its creation. That proportionate value of the Division's Pond and Southwest Buffer Property rights shall remain constant. Should a change in conditions give rise to the extinguishment of this Easement, as provided in Treasury Regulation Section 1.170A-14(g)(6)(I), or extinguishment of a portion of the Division's rights under this Easement, the Division on a subsequent sale, exchange, conveyance, or involuntary conversion of the Pond and Southwest Buffer Property or a portion of the Pond and Southwest Buffer Property shall be entitled to a portion of the proceeds at least equal to such proportionate value of this Easement as established at the time of its creation. All interpretations of the Division's Pond and Southwest Buffer Property rights shall follow Treasury Regulation Section 1.170.

Whenever all or part of the Pond and Southwest Buffer Property is taken in exercise of eminent domain, or under claim of rights of eminent domain, by public, corporate, or other authority so as to abrogate the restrictions imposed by this Easement, the University shall and the Division may join in appropriate actions to recover the full value of the Pond and Southwest Buffer Property taken and all incidental or direct damages resulting from such taking. All reasonable expenses incurred by the University or the Division in any such action shall first be reimbursed out of the recovered proceeds; the remainder of such proceeds shall be divided between the University and the Division in proportion to their interest in the Pond and Southwest Buffer Property, as provided in the first paragraph of this Section.

The University agrees that reference to this Easement will be made in any subsequent deed, or other legal instrument, by means of which any interest in the Pond and Southwest Buffer Property (including any leasehold interest) is conveyed, and that a copy of this Easement will be

attached thereto. The University will notify the Division in writing of any conveyance of interest by sending written notice to the Division as provided in Section IV, Subsection A. The University agrees to provide notice of this Easement to all successors in interest, and to any potential purchasers or subsequent owners. In the event the University elects to sell the Pond and Southwest Buffer Property, the University agrees to provide notice of this Easement in any sale or solicitation materials or information. Any failure to comply with the terms of this paragraph shall in no manner render this Easement or any provisions of this Easement unenforceable.

SECTION XIII - MISCELLANEOUS PROVISIONS

- A. Partial Invalidity. If any provision of this Easement, or the application of this Easement, or the application of this Easement to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement, and the application of such provisions to persons or circumstances other than those to which it is found to be invalid, shall not be affected thereby.
- B. Enforcement. The University intends that enforcement of the terms and provisions of this Easement shall be at the discretion of the Division, and that the Division's failure to exercise its rights under this Easement, in the event of any breach by the University, shall not be considered a waiver of the Division's rights under this Easement in the event of any subsequent breach.
- C. "University" and "Division". The term "University", as used in this Easement, and any pronouns used in place thereof shall mean and include Utah State University, and its successors and assigns. The term "Division", as used in this Easement, and any pronouns used in place thereof shall mean the Division of Wildlife Resources of the Utah Department of Natural Resources and its successors and assigns.
- D. Titles. Section and Subsection titles and subtitles are for convenience only and shall not be deemed to have legal effect.
- E. Amendment. Nothing in this Easement shall be construed to preclude The University from making a subsequent conveyance of rights in the Pond and Southwest Buffer Property to further protect its Conservation Values, provided, however, that any such subsequent conveyance shall not impair any conservation purpose sought to be advanced by this Easement.
- F. Liberal Construction. This Easement shall be liberally construed in favor of maintaining the Conservation Values of the Pond and Southwest Buffer Property and the Primary Uses by UBC, and in accordance with Utah Code Ann. §§ 57-18-1 to 57-18-7. The parties acknowledge that each has reviewed and revised this Easement with the assistance of counsel, and that no rule of construction resolving ambiguities against the drafting party shall be employed in interpreting this Easement.
- G. Successors. This Easement is binding upon, and will inure to the benefit of the University's and the Division's successors in interest and assigns. All subsequent owners of the Pond and Southwest Buffer Property are bound to all provisions of this Easement to the same extent as the University.

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H. Governing Law. This Easement will be interpreted and construed in accordance with applicable Utah laws.

I. Entire Agreement. This Easement sets forth the entire agreement of the parties. It is intended to supersede all prior discussions or understandings.

J. Compliance With Law. All uses and practices permitted by this Easement, including the Primary Uses, shall comply with all applicable state and federal laws.

K. Effective Date. The effective date of this Easement will be the date signed by all parties.

L. Notice Requirements. The University hereby acknowledges that the Division, at least three days prior to the execution of this Easement, discussed with it the types of conservation easements available, the legal effect of each easement, and the advisability of consulting legal counsel concerning the possible legal and tax implications associated with granting this Easement.

M. Right of First Refusal. In the event University chooses to sell or convey the remaining interest in the Pond and Southwest Buffer Property encumbered by this Easement, The Division shall have the Right-of-First-Refusal to purchase said remaining interest at a value equal to any bona fide offer to purchase the remaining interest.

N. Change of Conditions. The fact that any use of the Pond and Southwest Buffer Property expressly prohibited by this Easement or otherwise determined inconsistent with the purpose of this Easement may become significantly more valuable or economical than permitted uses, or that neighboring properties may in the future be put entirely to uses inconsistent with this Easement, has been considered by the University in granting this Easement. It is the University's belief that any such changes will increase the public's benefit and interest in the continuation of this Easement, and it is the intent of both the University and the Division that any such changes not be considered circumstances sufficient to terminate this Easement, in whole or in part. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination.

IN WITNESS WHEREOF, the University and the Division execute this Easement.

UNIVERSITY:

DIVISION:

UTAH STATE UNIVERSITY

UTAH DIVISION OF WILDLIFE RESOURCES

By [Signature]
David T. Cowley, Senior Associate
Vice Pres. for Business and Finance

By [Signature] **ACTING DIRECTOR**
James F. Karpowitz, Director of the
Division of Wildlife Resources

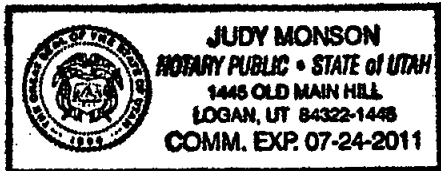
Line Karpowitz 8/18/09

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STATE OF UTAH)
: ss.
County of Cache)

On this 4th day of August, 2009, David T. Cowley, Senior Associate Vice President for Business and Finance, representing Utah State University, and known to me to be the person whose name is subscribed to the instrument set forth above, personally appeared before me, a Notary Public for the State of Utah, and acknowledged that he executed the same on behalf of Utah State University.

IN WITNESS WHEREOF, I hereunto set my hand and affix my notarial seal on the date above written.

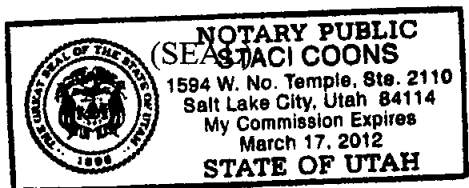


Judy Monson
Notary Public for the State of Utah
Residing at Logan, Cache, Utah
My commission expires 07-24-2011

STATE OF UTAH)
: ss.
County of Salt Lake)

On this 19 day of Aug., 2009, James F. Karpowitz, who is known to me to be the Director of the Utah Division of Wildlife Resources, and the person whose name is subscribed to the instrument set forth above, personally appeared before me, a Notary Public for the State of Utah, and acknowledged that he executed the same on behalf of Division of Wildlife Resources, Department of Natural Resources, State of Utah.

IN WITNESS WHEREOF, I hereunto set my hand and affix my notarial seal on the date above written.

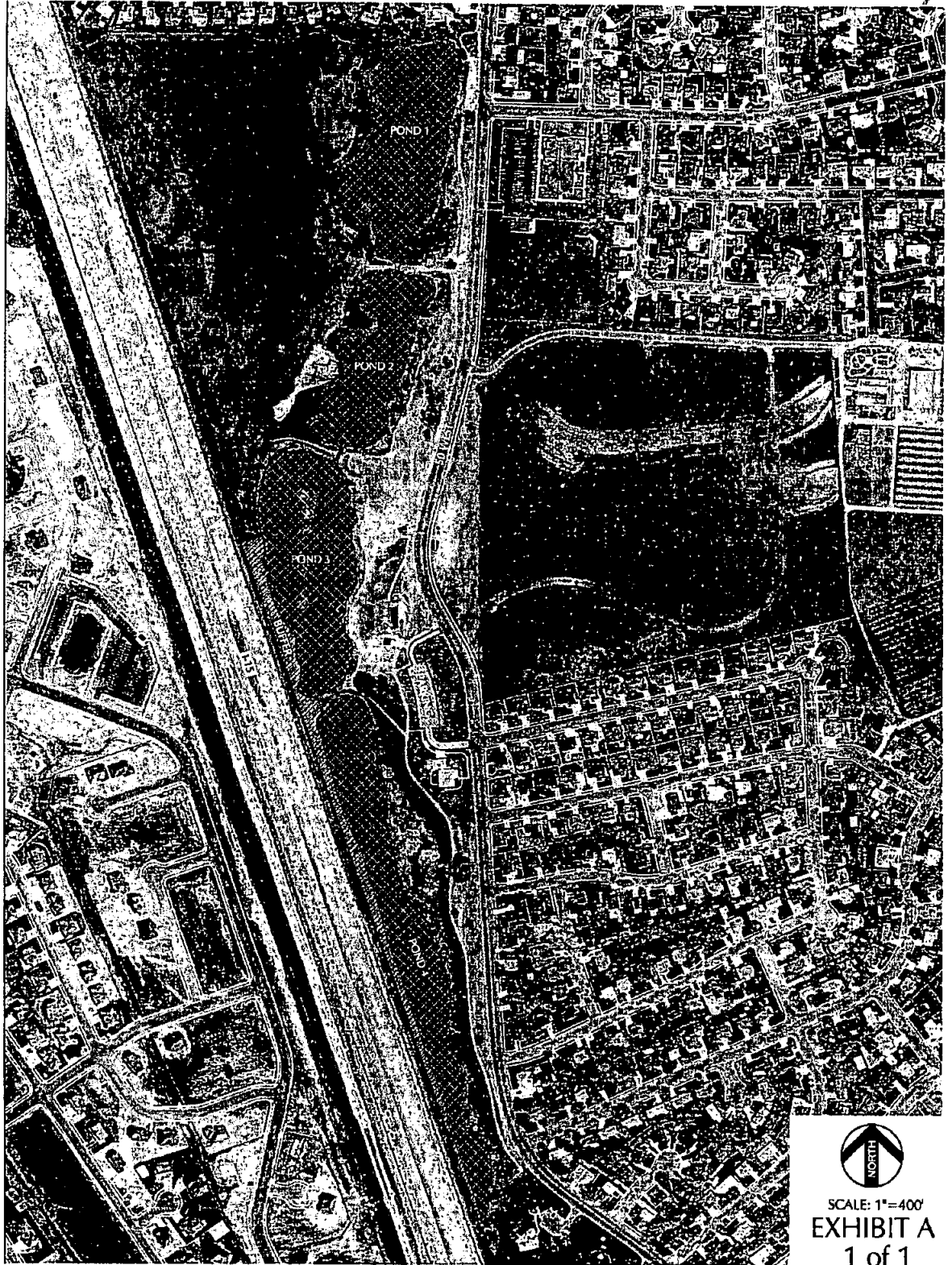


Staci Coons
Notary Public for the State of Utah
Residing at Salt Lake
My commission expires March 17, 2012

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Exhibit A
Aerial Photo of Ponds
And SW Buffer Area

170 1274

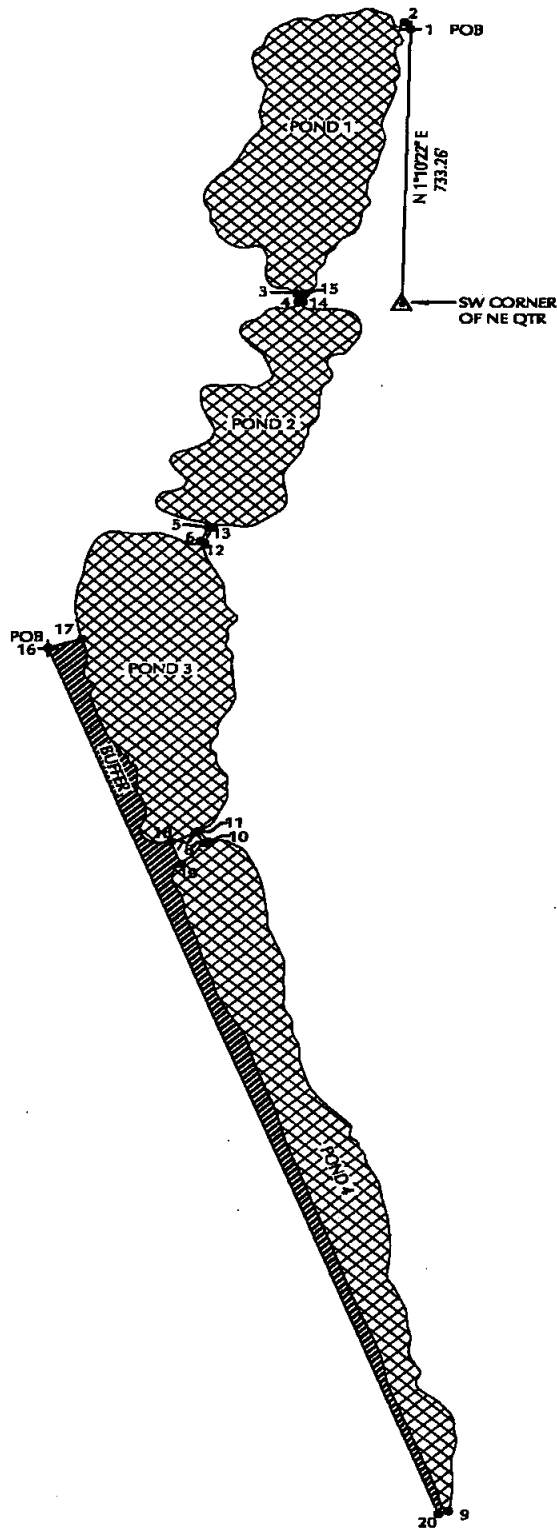


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Exhibit B
Description of Ponds
And SW Buffer Area

70 1274

Conservation Easement




SCALE: 1"=400'
EXHIBIT B
1 of 2

Conservation Easement

LEGAL DESCRIPTION:

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POND AREA:

AN AREA OF LAND THAT INCLUDES ALL WATER CONTAINED IN THE PONDS AND IS LIMITED TO THE INTERIOR OF THE SHORELINE OF EACH POND, WHICH MAY FLUCTUATE, FURTHER DESCRIBED AS:

COMMENCING FROM A POINT OF BEGINNING (1) ON THE NORTH SHORE OF POND 1, THAT IS NORTH 1°10'22" WEST 733.26 FEET MORE OR LESS FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, THENCE NORTH 35°38'22" WEST 22.38 FEET TO POINT (2), THENCE SOUTH 17°5'19" WEST 756.24 FEET MORE OR LESS, IN A SOUTH WESTERLY DIRECTION MEANDERING ALONG THE WEST SHORELINE TO POINT (3) ON THE SOUTH SHORE OF POND 1, THENCE SOUTH 6°50'49" EAST 21.99 FEET TO THE NORTH SHORE OF POND 2 TO POINT (4), THENCE SOUTH 17°0'3" WEST 628.43 FEET MORE OR LESS, IN A SOUTH WESTERLY DIRECTION MEANDERING ALONG THE WEST SHORELINE TO POINT (5) ON THE SOUTH SHORE OF POND 2, THENCE SOUTH 26°44'14" WEST 39.32 FEET TO POINT (6) ON THE NORTH SHORE OF POND 3, THENCE SOUTH 0°42'0" WEST 773.33 FEET MORE OR LESS MEANDERING IN A WESTERLY THEN SOUTHERLY DIRECTION ALONG THE WEST SHORE OF POND 3 TO POINT (7) ON THE SOUTH SHORE OF POND 3, THENCE SOUTH 34°18'25" WEST 33.17 FEET TO POINT (8) ON THE NORTH SHORE OF POND 4, THENCE SOUTH 15°58'28" EAST 1844.29 FEET MORE OR LESS, IN A SOUTH WESTERLY DIRECTION THEN SOUTH EASTERLY DIRECTION MEANDERING ALONG THE WEST SHORELINE TO POINT (9) ON THE SOUTH SHORE OF POND 4, THENCE NORTH 15°43'33" WEST 1844.97 FEET MORE OR LESS IN A NORTHERLY DIRECTION ALONG THE EAST SHORE OF POND 4 TO POINT (10) ON THE NORTH SHORE OF POND 4, THENCE NORTH 35°18'1" WEST 34.75 FEET MORE OR LESS TO POINT (11) ON THE SOUTH SHORE OF POND 3, THENCE NORTH 0°46'47" EAST 764.58 FEET MORE OR LESS, MEANDERING IN A NORTHERLY DIRECTION TO POINT (12) ON THE NORTH SHORE OF POND 3, THENCE NORTH 23°49'59" EAST 44.40 FEET TO POINT (13) ON THE SOUTH SHORE OF POND 2, THENCE NORTH 17°8'39" EAST 629.02 FEET MORE OR LESS, MEANDERING IN A NORTH EASTERLY DIRECTION TO POINT (14) ON THE NORTH SHORE OF POND 2, THENCE NORTH 11°58'13" EAST 21.60 FEET TO POINT (15) ON THE SOUTH SHORE OF POND 1, THENCE NORTH 17°12'13" EAST 738.40 FEET MORE OR LESS, MEANDERING IN A NORTH EASTERLY DIRECTION TO THE POINT OF BEGINNING, CONTAINING 1.91 ACRES MORE OR LESS.

08-003-0010

BUFFER AREA:

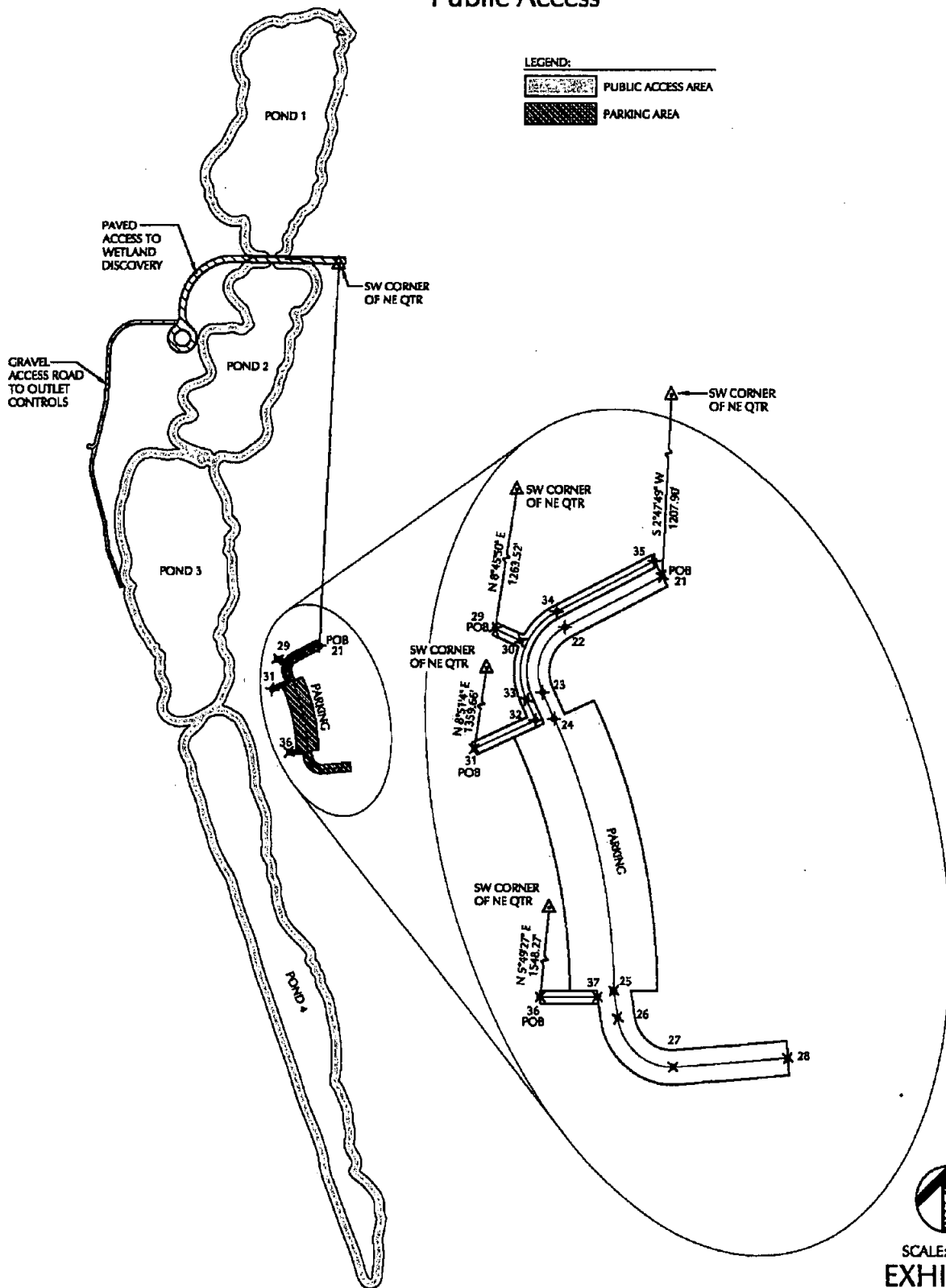
A 70.00 FOOT WIDE STRIP OF LAND RUNNING PARALLEL ALONG THE EAST SIDE OF AN EXISTING FENCE LINE EXCLUDING ANY LAND EAST OF THE SHORELINE OF EACH POND, FURTHER DESCRIBES AS COMMENCING FROM A POINT OF BEGINNING (16) THAT IS SOUTH 38°57'57" WEST 1173.38 FEET FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN, THENCE NORTH 70°26'42" EAST 70 FEET MORE OR LESS TO THE WEST SHORELINE OF POND 3 TO A POINT (17), THENCE IN A SOUTHERLY DIRECTION MEANDERING ALONG THE WEST SHORELINE TO A POINT (18) THAT IS APPROXIMATELY SOUTH 19°33'18" EAST 571.98 FEET, THENCE SOUTH 19°33'18" EAST 40.00 FEET MORE OR LESS TO THE SHORELINE TO A POINT (19), THENCE FOLLOWING A SOUTHERLY DIRECTION MEANDERING ALONG THE WEST SHORELINE OF POND 4 TO A POINT (9) THAT IS APPROXIMATELY SOUTH 18°0'18" EAST 1806.53 FEET, THENCE SOUTH 70°27'52" WEST 21.24 FEET (20) TO EXISTING FENCE LINE, THENCE NORTH 19°33'9" WEST 2439.37 FEET TO THE POINT OF BEGINNING, CONTAINING 6.94 ACRES MORE OR LESS.

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Exhibit C
Public Parking and
Access Area

Public Access

70 1274



Public Access

70 1274

LEGAL DESCRIPTION:

PARKING AREA:

PARKING AREA:

A STRIP OF LAND FOLLOWING A CENTERLINE WITH VARYING WIDTHS, FURTHER DESCRIBED AS BEGINNING AT A POINT (21) THAT IS SOUTH 2°47'49" WEST 1207.90 FEET FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE SALT LAKE BASE AND MERIDIAN, THENCE A 16.00 FOOT WIDE ENTRANCE FOLLOWING A CENTERLINE SOUTH 62°26'40" WEST 87.49 FEET TO POINT (22), CONTINUING THE 16.00 FOOT WIDE CENTERLINE ALONG A 40 FOOT RADIUS WHICH THE CHORD RUNS SOUTH 19°12'1" WEST 54.81 FEET TO POINT (23), CONTINUING THE 16 FOOT WIDE CENTERLINE SOUTH 23°56'59" EAST 22.90 FEET TO POINT (24), CHANGING TO A 70.00 FOOT WIDE CENTERLINE ALONG A 517.82 FOOT RADIUS WHICH THE CHORD RUNS SOUTH 12°20'22" EAST 220.52 FEET TO POINT (25), CHANGING TO A 26.00 FOOT WIDE CENTERLINE SOUTH 6°49'6" EAST 21.72 FEET TO POINT (26), CONTINUING THE 26.00 FOOT WIDE CENTERLINE ALONG A 41.73 FOOT RADIUS WHICH THE CHORD RUNS SOUTH 49°25'37" EAST 59.42 FEET TO POINT (27), THENCE CONTINUING THE 26.00 FOOT WIDE CENTERLINE SOUTH 85°10'39" WEST 90.44 FEET TO POINT (28).

THREE PEDESTRIAN ACCESS AREAS LEADING TO PARKING AREA:

FIRST: A 10.00 FOOT WIDE STRIP OF LAND FOLLOWING A CENTERLINE, FURTHER DESCRIBED AS BEGINNING AT A POINT (29) THAT IS SOUTH 8°45'50" WEST 1263.52 FEET FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE SALT LAKE BASE AND MERIDIAN, THENCE A 10.00 FOOT WIDE WALKWAY FOLLOWING A CENTERLINE SOUTH 65°26'28" WEST 22.41 FEET TO POINT (30).

SECOND: A 10.00 FOOT WIDE STRIP OF LAND FOLLOWING A CENTERLINE, FURTHER DESCRIBED AS BEGINNING AT A POINT (31) THAT IS SOUTH 8°51'4" WEST 1359.66 FEET FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE SALT LAKE BASE AND MERIDIAN, THENCE A 10.00 FOOT WIDE WALKWAY FOLLOWING A CENTERLINE NORTH 65°21'24" EAST 214.61 FEET TO POINT (32), THENCE NORTH 24°2'38" WEST 72.18 FEET TO POINT (33), THENCE CONTINUING THE 10.00 FOOT WIDE CENTERLINE 326.25 FEET ALONG A 216.00 FOOT RADIUS WHICH THE CHORD RUNS NORTH 19°13'35" EAST 296.11 FEET TO POINT (34), THENCE NORTH 62°26'40" EAST 351.86 FEET TO POINT 35.

THIRD: A 10.00 FOOT WIDE STRIP OF LAND FOLLOWING A CENTERLINE, FURTHER DESCRIBED AS BEGINNING AT A POINT (36) THAT IS SOUTH 5°49'27" WEST 1548.27 FEET FROM THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 3, TOWNSHIP 3 NORTH, RANGE 1 WEST, OF THE SALT LAKE BASE AND MERIDIAN, THENCE A 10.00 FOOT WIDE WALKWAY FOLLOWING A CENTERLINE NORTH 89°59'2" EAST 45.59 FEET TO POINT (37).

PEDESTRIAN AREA:

A 30 FOOT WIDE AREA FOR PEDESTRIAN ACCESS FOLLOWING THE SHORELINE OF ALL THE PONDS AND ALL OPEN TRAILS AND AREAS SO INDICATED BY DIRECTIONS AND/OR SIGNS ON SITE, CONTAINING 16.43 ACRES MORE OR LESS.

EXHIBIT C
2 of 2

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Exhibit D
Grazing Management Plan

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01/22/2009

Escrow No.: w090001 ()

SCHEDULE C

Description

The land referred to in this report is situated in the County of Davis, State of UT, and is described as follows:

All that part of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian, more particularly described as follows:

Commencing at the Southwest corner of the Northeast Quarter of said Section 3; thence South 3.24 feet; thence East 24.62 feet to an existing fence corner marking the West right of way line for 50 West Street and the East boundary of the property described in that certain Warranty Deed, recorded August 18, 1956, as Entry No. 159333, Book 110, at Page 510 of the Official Records of Davis County, said fence corner also being the Point of Beginning for the tract of land to be herein described; thence South 1° 51' 09" West 479.76 feet; thence South 1° 13' 09" East along said East Boundary 363.64 feet to an existing fence corner; thence South 1° 13' 09" East along an existing fence line 493.01 feet; thence South 3° 52' 57" East along an existing fence line 1202.12 feet; thence South 7° 02' 00" East along an existing fence line 252.44 feet; thence South 0° 28' 49" East along an existing fence line 132.93 feet to the end of said fence line; thence South 0° 28' 49" East 420.30 feet to a point on an existing fence line; thence North 69° 59' 38" West along said existing fence line 23.43 feet to an existing Utah Department of Transportation Highway right of way marker, said point being on the East boundary of the property described in that certain Final Order of Condemnation, recorded October 10, 1974, as Entry No. 403484, in Book 552, at Page 202 of the Official Records of Davis County, and Entry No. 403485, in Book 552, at page 205 of the Official Records of Davis County, and said point being also on the Eastern Boundary of the certain property described in a Quit Claim Deed, recorded October 24, 1975, as Entry No. 421761, in Book 581, at Page 665 of the Official Records of Davis County; thence running along the said East Boundary the following described courses and distances; thence North 19° 33' 08" West 2570.18 feet; thence North 7° 08' 42" West 102.39 feet to an existing Utah Department of Transportation highway right of way marker, thence North 19° 33' 12" West 1100.49 feet to an existing Utah Department of Transportation highway right of way marker; thence North 16° 40' 12" West 200.28 feet to an existing Utah Department of Transportation highway right of way marker; thence North 19° 33' 33" West, 397.18 feet, more or less to an existing fence line, said point being on the North boundary of the property described in that certain Warranty Deed recorded May 15, 1974, as Entry No. 395506, in Book 540 at Page 90 of the Official Records of Davis County; thence North 88° 44' 22" East along as existing fence line and the North boundary of the property so described in said Deed, 915.40 feet; thence South 89° 25' 41" East, along said North boundary 451.23 feet to an existing fence corner; thence South 2° 24' 25" West along an existing fence line 637.81 feet; thence South 1° 51' 09" West along an existing fence line 174.09 feet to the point of beginning.

Said property is also known by the street address of:
, Kaysville, UT

08-003-0010

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Exhibit E
Baseline Inventory Document

70 1274

Conservation Easement Baseline Inventory Report

“Utah State University, Utah Botanical Center”



Report Date: December 30, 2008

Prepared by Eric Anderson

Utah Division of Wildlife Resources

Utah State University, Utah Botanical Center Baseline Inventory Report

A. LAND OWNERSHIP INFORMATION:

Utah State University
 Attn: Vice President for Business and Finance
 1445 Old Main Hill
 Logan, Utah 84322-1445
 Phone: (435) 797-1148

B. LOCATION & DIRECTION TO PROPERTY:

The Utah Botanical Center is located in Davis County, Utah, approximately seven (7) blocks south of Kaysville City Hall, in Township 3 North, Range 1 West, S.L.B. &M. (see Exhibits A, B, & C). To access the property, from the south, drive north on I-15 to the 200 north exit (exit 328) in Kaysville turn east on 200 north to main street, turn right (south) onto main street and travel south approximately 1/3 mile to 50 west, turn onto 50 west and travel south approximately 3/4 mile to the parking access turn, turn southwest into the parking lot. See the roadmap, Exhibit F.

C. BACKGROUND INFORMATION:

1. History of Acquisition: The conservation easement on the Utah Botanical Center was acquired based on the mutual commitments made by both parties and the Cooperative Agreement (CA) signed by both parties in 2003.

2. Purpose of Conservation Easement: The Utah Botanical Center's four (4) ponds known as the Kaysville Pond and southwest Buffer Property supply the community with an Urban or Community Fishery, educational opportunities, and open space values.

3. Past and Present Uses of Landowner: Dale Huffaker, Director of Real Property Administration at the University, has related that the property was acquired from the LDS Church in 1994. It has historically been used as a farming operation and an Urban or Community Fishery. The four (4) ponds and the southwest buffer area will still be used as an Urban or Community Fishery, but the property surrounding the ponds and buffer area are now and will continue to be used for educational and open space purposes. The ponds and southwest buffer area are shown in the aerial photograph (Exhibit A).

4. Adjoining Land Uses: The Utah Botanical Center is bordered on the south by Ponds Park, which is managed by Kaysville City, the south two ponds are bordered on the west by the north bound lanes of the I-15 freeway, the north two ponds are bordered on the west by land that is cultivated by USU, on the north by an existing subdivision and on the east by a city road known as 50 west.

5. Legal Condition of the Property: See the attached Title Report (Exhibit H). Water assets associated with this property are as follows: (Exhibit G) water certificate No. 268

for Thirty (30) shares of Class C stock in Haight's Creek Irrigation Company and state water right number 31-2800.

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Section II. Current Conditions

A. SUMMARY TABLE OF CONSISTENT USES AND PROHIBITED USES (include Section where use is addressed in easement contract (CE); provisions will vary by contract):

Consistent Uses	Prohibited Uses
Ranching-type facilities - maintain, replace, repair of fences both existing and new fences (Section III .A)	Structures, except as provided in CE (Section V.G)
Grazing, (Section III.C) recreational, educational (Section III.D)	Subdivision (Section V.F)
hunting, trapping, fishing, (Section III.D) recreational uses. (Section II.B)	Mineral development - no surface mining permitted Mining, excavation - no mining, quarrying, excavation or removal of rocks, mineral, gravel, sand topsoil Filling, excavating, dredging, drilling, exploration, extraction (Section V.M)
Limited building right (Section II.B)	Removal of sand and gravel for use on roads of the property or agricultural uses (Section V.M)
Improvements roads - maintenance and improvements of existing roads and trails provided not paved with pavement, concrete, or any other hard impervious material fences - maintenance, repair and if destroyed reconstruction of existing fencing structures (Section III)	Change, disturbance, alteration, or impairment of the significant relatively natural ecological features and values Alteration, excavation, or impairment of any natural watercourse or wetland (Section V.D)
Parking- Parking is granted at the designated parking area (Section I.B)	Waste disposal and hazardous material dumping, storage, depositing Dumping or disposal of non-compostable refuse, animal carcasses, wildlife-attracting materials (Section V.K)
Signs- signs may be placed on the property to identify this easement. (Section I.D)	Industrial, commercial, residential activities except as permitted (Section V.A)

Agricultural chemicals and biological controls (noxious weeds, forest or rangeland pests, crops) (Section III.F)	Signs and billboards except as noted (Section V.P)
Fish Management- DWR has the full right to manage fish populations and treatment. (Section I.E)	Utility right-of-way/lines unless underground (Section V.L)
Access- 30' path around ponds and on southwest buffer property. (Section I.B)	Water rights - no sale, removal, or transfer of water rights and shares (Section III.E)
Improvement of water resources as outlined (Section III.E)	Aircraft facilities - will not construct or erect any aircraft facilities or aircraft landing facilities (Section V.Q)
	Game farming or game farm animals - will not construct or operate a game farm nor hold game farm animals on property (Section V.B)
	Commercial feed lot Commercial farming operation (Section V.J)
	Wildlife disturbance or harassment prohibited (Section V.C)
	Introduction of non-native or non-naturalized species (plant or animal) Application of biocides, herbicides (Section V.E)
	Cultivation or farming - additional sodbusting (Section V.R)
	Motorcycles, dune buggies, all terrain vehicles, motorboats (Section V.I)
	Vehicles - use of vehicles to accomplish purposes of easement only (Section V.I)
	Roads - construction of vehicle roads or trails with exception of those planned and described (Section V.H)
	Non-commercial, passive recreational uses (hiking, canoeing, swimming, picnicking and bird watching) (Section V.A)
	Timber harvesting except as permitted in General Management Plan (GMP) (Section V.N)
	Raptor nests - will not move or destroy (Section V.O)

B. EXISTING CONDITIONS RELATED TO RESERVED RIGHTS PROVISIONS:**1. Educational, and Recreational Facilities:**

Easement Provision: Grantor reserves the right to build and construct more pedestrian trails around the ponds and a planned boardwalk that will extend over the water for fishing and educational purposes. The planned boardwalk referenced in the CE Section II. B. will be built at the Wetland Discovery Center referenced in the CE Section V.H. at the location shown on Exhibits A and C and as shown herein below in Section III. A. Photographs 15, 16, 17, 18.

Existing Condition: At this point the Wetland Discovery Center is under construction along with the paved access to the center. No boardwalk currently exists within the boundaries on the conservation easement.

2. Ranching Type Facilities:

Easement Provision: Grantor may maintain, replace, and repair, the fences, roads and other improvements located on the Property as of the date of this Easement and Grantor may construct fences along the exterior border of the Property with prior approval of the Division (CE Section III.A)

Existing Condition: All boundary and internal fences on the property are described below

The boundary fence on the west side of the property separates the UBC property from the UDOT right-of-way for I-15. It is newly installed (2008) six (6) ft. black vinyl chain link fencing measuring 4050 linear feet in length. There are no access point/gates along this property line, thus creating a seamless boundary between the UBC and I-15.

There is no boundary fence on the east side of the property. The property abuts 50 West Street on the east side. There is a boundary fence on the north side of the property made of backyard fences from the adjacent neighborhood – a mixture of wood and chain link fences.

Other structures located on the pond property include outlet structure on west side of Barton's Pond, v-notch and horizontal weir between Slough Pond and Barton's Pond, v-notch and horizontal weir between Blood's Pond and Slough Pond, inlet structure at northeast corner of Blood's Pond, pedestrian bridge at Blood's Pond inlet, and Wetland Discovery Point classroom and grounds.

3. Subdivision:

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Easement Provision: The Pond and Southwest Buffer Property shall not be subdivided or otherwise partitioned without the prior written approval of the Division. The terms of this deed shall apply to any subdivision parcels authorized by the Division (CE Section III.B).

Existing Condition: The Pond or Southwest Buffer Property has not been subdivided or otherwise partitioned

C. EXISTING CONDITIONS RELATED TO PROHIBITED USES

1. Commercial Facilities or Activities:

Easement Provision: No commercial facilities may be erected on the easement property. All commercial activities are prohibited other than agriculture (CE Section V.A.)

Existing Condition: No structures other than those noted above, exist on the easement property.

2. Game Farming and Game Farming Animals.

Easement Provision: None as per CE Section V.B.

Existing Condition: *None*

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Section III. Photographs

A. PHOTOGRAPH DATA TABLE:

<u>Photograph</u>	<u>Photopoint</u>	<u>Lens Focal Length</u>	<u>Date/Time</u>	<u>Photographer</u>	<u>* Bearing</u>	<u>Subject</u>
1	A	Digital	2/5/09 10:39 am	Therese Meyer	225°	North entrance to parking lot off 50 west looking west
2	B	Digital	2/5/09 10:43 am	Therese Meyer	164°	Looking south from the north side of parking access
3	C	Digital	2/5/09 11:39 am	Therese Meyer	0°	Southern most point of pond 4 looking NE
4	D	Digital	2/5/09 11:39 am	Therese Meyer	328°	Southern most point of pond 4 looking north at SW buffer area
5	E	Digital	2/5/09 11:44 am	Therese Meyer	156°	Looking north along west side of pond 4 and SW buffer area
6	F	Digital	2/5/09 11:44 am	Therese Meyer	338°	Looking south along the west side of pond 4 at SW buffer area
7	G	Digital	2/5/09 11:46 am	Therese Meyer	341°	View of rock drain starting on the freeway side of fence
8	H	Digital	2/5/09 11:53 am	Therese Meyer	343°	View to the north along the SW buffer area along pond 4
9	I	Digital	2/5/09 12:03 pm	Therese Meyer	327°	View looking north along the SW buffer of pond 3
10	J	Digital	2/5/09 12:03 pm	Therese Meyer	48°	View looking east from the west side between pond 3 & 4
11	K	Digital	2/5/09 12:06 pm	Therese Meyer	63°	View of outlet screw gate of sw corner of pond 3
12	L	Digital	2/5/09 12:15 pm	Therese Meyer	4°	Westside of pond 3 looking north
13	M	Digital	2/5/09 12:10 pm	Therese Meyer	28°	View of outlet on the west side of pond 3
14	N	Digital	2/5/09 12:11 pm	Therese Meyer	111°	Close up view of outlet on west side of pond 3
15	O	Digital	2/5/09 12:25 pm	Therese Meyer	218°	East side of the Wetland Discovery Center
16	P	Digital	2/5/09 12:30 pm	Therese Meyer	226°	Looking SW from west side of pond 2 at the Wetland Discovery Center
17	Q	Digital	2/5/09 12:57 pm	Therese Meyer	278°	Looking west at road to the Wetland Discovery Center from 50 West
18	R	Digital	2/5/09 12:34 pm	Therese Meyer	93°	Westland Discovery Center road looking east towards 50 west.
19	S	Digital	2/5/09 12:48 pm	Therese Meyer	230°	Looking west at concrete inlet to pond 1 on the NE corner
20	T	Digital	2/5/09 10:30 am	Therese Meyer	210°	Welcome sign on the west side of the south end of parking access

* Bearing was taken from www.ngdc.noaa.gov as of June 16, 2009 the Declination = 12° 27' East

B. PHOTOPOINT KEY TABLEPhotopoint UTM (zone 12, NAD 83) Location Description

A	420954.5	4541461.5	North entrance off 50 west
B	420914.5	4541431.1	Parking access looking to the south
C	420998.7	4540791.8	Southern point of pond 4 looking NE along park
D	420998.7	4540791.8	Southern point of pond 4 looking as SW buffer
E	420951.1	4540924.9	South view of SW buffer
F	420951.1	4540924.9	North view of SW buffer
G	420944.3	4540940.4	View of rock drain from freeway to pond 4
H	420867.3	4541166.4	North view of SW buffer
I	420813.3	4541358.1	North view of SW buffer on pond 3
J	420813.3	4541358.1	Trail between ponds 3 and 4
K	420797.2	4541380.0	Screw outlet on pond 3
L	420759.1	4541528.4	Access road on west side of pond 3
M	420763.3	4541479.0	Concrete outlet in the middle west side of pond 3
N	420761.2	4541500.6	Close up view of outlet on pond 3
O	420842.7	4541700.2	Concrete deck off east side of Wetland Discovery Cntr.
P	420861.8	4541740.1	Looking at the east side of Wetland Discovery Cntr.
Q	420965.3	4541806.8	Entrance road to Wetland Discovery Center
R	420881.3	4541813.8	Exit view of road from Wetland Discovery Center
S	420981.8	4542044.1	Water inlet to pond 1 on the NE corner
T	420895.5	4541400.4	Welcome sign located in parking access area

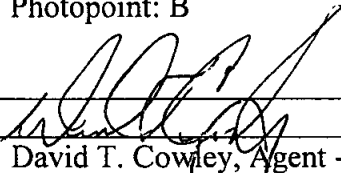

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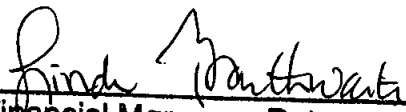


Photograph 1: Entrance to parking area off of 50 W.
Photopoint: A



Photograph 2: Parking area looking south from entrance
Photopoint: B

	 ACTING DIRECTOR
David T. Cowley, Agent - University	James F. Karpowitz, Director

35-60  8/18/09
 Financial Mgr. Date
 Division of Wildlife Resources

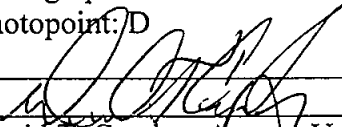
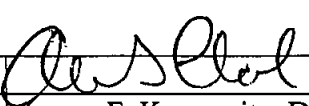
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Photograph 3: Southern most point of pond 4 looking NE along park fence line and pond.
Photopoint: C



Photograph 4: Southern most point of pond 4 looking north at fence line and SW Buffer area.
Photopoint: D

 David T. Cowley, Agent - University	 ACTING DIRECTOR James F. Karpowitz, Director
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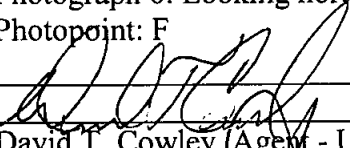

36-60 Find Parkways 8/18/09
 Financial Mgr. Date
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Photograph 5: Looking South along SW buffer area from the west side of pond 4.
Photopoint: E



Photograph 6: Looking north along SW buffer area from west side of pond 4.
Photopoint: F

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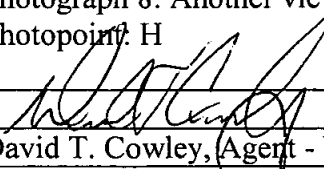
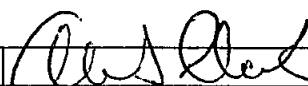
37-60
 8/18/09
 Financial Mgr. Date
 Division of Wildlife Resources



Photograph 7: A look at a rock drain that starts on the freeway side of the fence and flows east into pond 4. There are approximately 3 entering pond 4 and 1 entering pond 3.
Photopoint: G



Photograph 8: Another view of the SW buffer area looking north along the west side of pond 4.
Photopoint: H

 David T. Cowley, Agent - University	 ACTING DIRECTOR James F. Karpowitz, Director
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38-60 Final Budget 8/18/09
 Financial Mgr. Date
 Division of Wildlife Resources

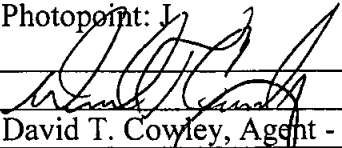
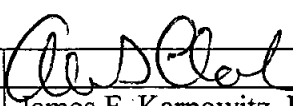
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Photograph 9: view looking north at the SW buffer area from the southwest corner of pond 3. Photopoint: I



Photograph 10: Photo looking east between ponds 3 and 4 showing the trail. Photopoint: I

 David T. Cowley, Agent - University	 ACTING DIRECTOR James F. Karpowitz, Director
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39-60

James F. Karpowitz 8/18/09
 Financial Mgr. Date
 Division of Wildlife Resources

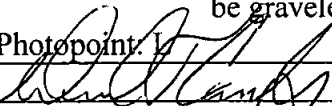
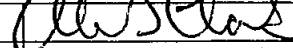


Photograph 11: Concrete outlet with screw gate located on the SW corner of pond 3.
Photopoint: K




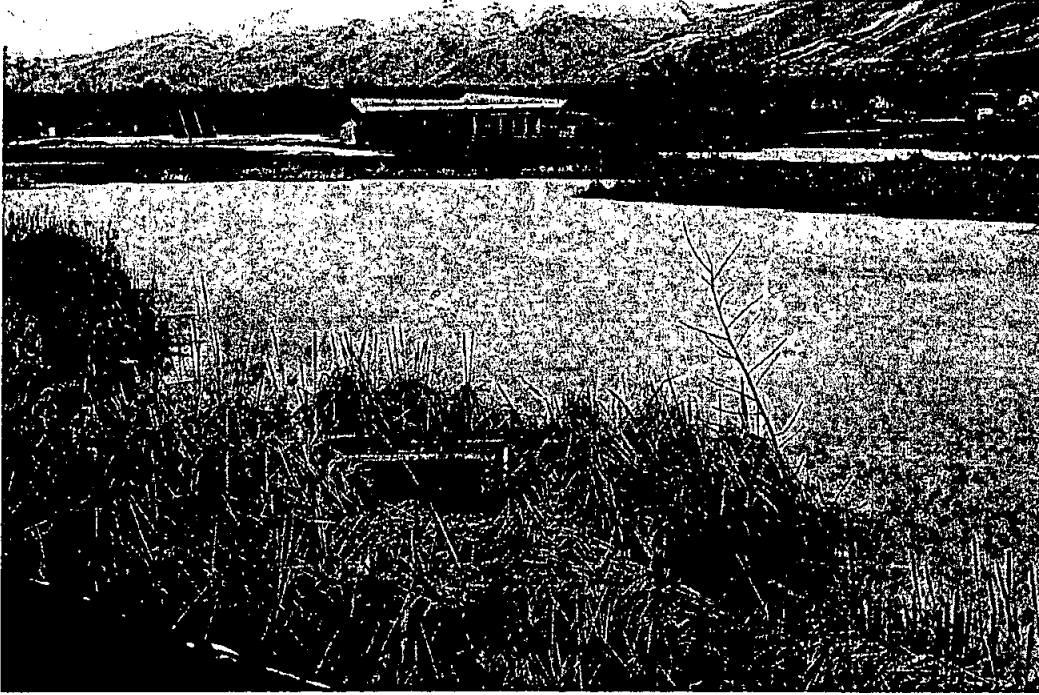
Photograph 12: View looking NE along the west side of pond 3 looking at the trail and road (will be graveled) to the outlet in picture 13 & 14.

Photopoint: L

		ACTING DIRECTOR
David T. Cowley, Agent - University	James F. Karpowitz, Director	

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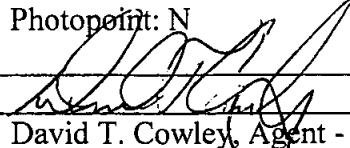
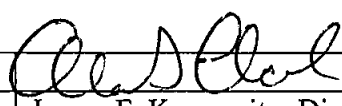
 8/28/09
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 Division of Wildlife Resources



Photograph 13: view looking north at the outlet on the west side of pond 3.
Photopoint: M



Photograph 14: View looking east at the outlet on the west side of pond 3.
Photopoint: N

	 ACTIVE DIRECTOR
David T. Cowley, Agent - University	James F. Karpowitz, Director

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 8/18/09
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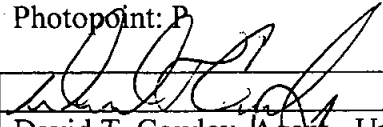
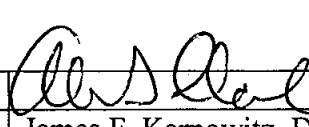
Photograph 15: Looking SW at a view of the concrete deck from the Wetland Discovery Center on the west side of pond 3.

Photopoint: O



Photograph 16: Looking West and the eastside of the Wetland Discovery Center.

Photopoint: P

	 ACTING DIRECTOR
David T. Cowley, Agent - University	James F. Karpowitz, Director

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 8/18/09
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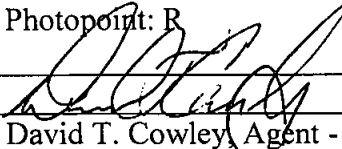

Photograph 17: Looking west from 50 west at paved road to the Wetland Discovery Center between ponds 1 and 2.

Photopoint: Q



Photograph 18: looking east towards 50 West along paved access from Wetland Discovery Center between ponds 1 and 2.

Photopoint: R

	 ACTING DIRECTOR
David T. Cowley, Agent - University	James F. Karpowitz, Director

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 Linda Benthall 8/18/09
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 Division of Wildlife Resources



Photograph 19: Inlet to pond 1 on the NE corner of pond 1. Photopoint S.



Photograph 20: This is a view of two signs located on the Utah Botanical Center property. One is located on the NW corner of the parking access and other is located on the se corner of pond 4.

Photopoint: T

David T. Cowley (Agent - University)

James F. Karpowitz, Director
ACTING DIRECTOR

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Linda Brathwaite 8/18/09
Financial Mgr. Date
Division of Wildlife Resources

Exhibit F
Road Map to Location

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Exhibit G
Water Right Certificates

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Exhibit G

Haight's Creek Irrigation Company

No 268

This Certificate that Uran State University Ag. Experimental Station
 is the owner of (30) shares Shares of the Capital Stock of
HAIGHT'S CREEK IRRIGATION COMPANY

transferable only on the books of this Corporation in person or by attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed at Flagstaff, Utah. this 17 day of December, 1905

Cecy Miller
Secretary



W. D. Day
President

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CERTIFICATE OF BENEFICIAL USE

STATE OF UTAH

WATER RIGHT No: 31 - 2800 (D99)82

NATURE OF CHANGE: Point of Diversion [X] Place of Use [X] Nature of Use [X]

1. WATER RIGHT AND OWNERSHIP INFORMATION:

- A. NAME: Corporation of the Presiding Bishopric LDS Church INTEREST: 100%
 ADDRESS: 50 East North Temple, Salt Lake City, UT 84150
- B. RIGHT EVIDENCED BY: 31-2800 (Dil 99)
 on which the following Change Application(s) have been filed:
 Change Application No. a14335
- C. PRIORITY DATE: 1903 PRIORITY OF CHANGE a14335: May 18, 1987

2. SOURCE INFORMATION:

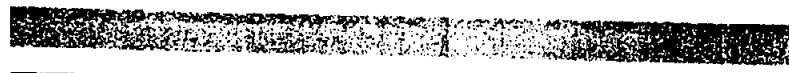

- A. QUANTITY OF WATER: 35.0 acre-feet
- B. DIRECT SOURCE: Barton's Pond
- C. POINT OF DIVERSION -- SURFACE:
 (1) N 1632 feet W 671 feet from S₄ corner, Section 3, T 3N, R 1W, SLBM
 DIVERTING WORKS: Diversion box/stop logs/ditch
 SOURCE OF POD: Barton's Pond
- D. DRAINAGE AREA: Davis County COUNTY: Davis

3. STORAGE. Water is diverted for storage into:

- (1) Barton's Pond, from Jan 1 to Dec 31.
 CAPACITY: 80.440 acre-feet. INUNDATING: 19.70 acres. DAM HEIGHT: 10 feet.
 Area inundated includes all or part of the following legal subdivisions:

BASE TOWN	RANG	SEC	NORTH-EAST4				NORTH-WEST4				SOUTH-WEST4				SOUTH-EAST4				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
SL	3N	1W	3																
SL	3N	1W	4		X					X				X				X	

4. WATER USE INFORMATION:


Certificate of Beneficial Use


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CERTIFICATE OF PERMANENT CHANGE for Water Right: 31 - 2800 continued***

IRRIGATION: from Apr 1 to Oct 31. IRRIGATING: 199.50 acres.

BS TOWN RANG SC	---North East Quarter---				---North West Quarter---				---South West Quarter---				---South East Quarter---				Section Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
SL 3N 1W 4																	4.50
SL 3N 1W 9	31.30	21.00	40.00	30.20					5.20			3.60	20.20	35.20	8.30	195.00	195.00
Group Total:																199.50	

LIMITATION(S) -- Water Right 31 - 2800 is limited to: the irrigation requirements of 10.00 acres.

5. EXPLANATORY:

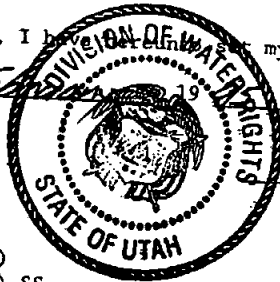
There is no Priority Date given, just a note that says the water was first used in Pioneer days.

6. SIGNATURE OF STATE ENGINEER & ACKNOWLEDGMENT OF NOTARY PUBLIC:

The right evidenced by this certificate is restricted to the change described herein, and the certificate in no way establishes nor validates the water right claimed by the applicant, and the change is to in no way enlarge the original right or rights. This certificate entitles the holder to use only sufficient water from all rights combined to constitute an economic duty without waste of water. The works used in this change are to be operated and maintained in such a manner and condition as will prevent waste of water.

In Witness Whereof, I have by my hand and affixed the seal of my office this

6 day of FEBRUARY, 19 95



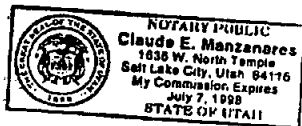
Robert L. Morgan
State Engineer

STATE OF UTAH)
) SS
COUNTY OF SALT LAKE)

In the event the right evidenced by this certificate is transferred, in the event such transfer is made, a copy of this certificate is transferred to the party acquiring the right, and the State Engineer of Utah shall be notified.

The foregoing instrument was acknowledged before me this

6 day of FEBRUARY, 19 95 by ROBERT L. MORGAN, State Engineer of Utah.



Claude E. Manzanotes
Notary Public

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Exhibit H
Title Report

70 1274

MISCELLANEOUS REPORT

**First American Title Insurance Agency
560 South 300 East, Salt Lake City, UT 84111
Phone: 801.578.8888 | Fax: 801.355.1911**

Order No: w090001
Charge: \$500.00

Re: Property Owners: Utah State University of Agricultural and Applied Science

EFFECTIVE DATE: 01/09/2009 at 7:30 A.M.

IN WITNESS WHEREOF the said Company has caused these presents to be signed by its duly authorized officer on 01/22/2009, at Salt Lake City, Utah.

FIRST AMERICAN TITLE INSURANCE AGENCY

By: 
Authorized Signatory

**PLEASE DIRECT ANY INQUIRIES RELATIVE TO THE CONTENTS OF THIS REPORT
TO: TITLE OFFICER: Bradford J. Dobson at 560 South 300 East, Salt Lake City, Utah 84111.**

70 1274

01/22/2009
Escrow No.: W090001 ()

SCHEDULE A

1. The estate or interest in the land described or referred to in this report and covered herein is fee simple and title thereto is at the effective date hereof vested in:

Utah State University of Agricultural and Applied Science

70 1274

01/22/2009

Escrow No.: w090001 ()

SCHEDULE B**Exceptions**

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interest or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easements or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments and any other facts which a correct survey would disclose, and which are not shown by public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof, water rights, claims or title to water.
6. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.

General property taxes for the year 2008 have been paid. Tax Parcel No. 08-003-0010

7. Said property is included within the boundaries of Weber Basin Waster Conservancy District, Central Davis County Sewer District and is subject to assessments by said Districts.
8. A right of way one rod in width, the center line of which is described as follows:

Commencing at a point 332.97 feet West of the Northeast corner of the Southwest Quarter of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian, and running thence South 26°50' West 705.5 feet; thence South 13° 47' West 370.2 feet; thence North 68° 58' West 237.7 feet to the East line of the Oregon Short Line RR right of way; thence South 68° 38' West 137.7 feet crossing said right of way; thence South 15°40' East 971 feet, more or less to the North line of said Grantee's land, said right of way to be used by said Grantor, his heirs, successors and assigns, as granted to HARMON A. BARTON, by Grant of Right of Way, recorded August 17, 1951, as Entry No. 118898, in Book 29, Page 112 of Official Records.
9. A right of way deed conveying to NORA BARTON, the following described tract of real property for road purposes by the said Grantee, said land being described particularly as follows:

01/22/2009

Escrow No.: W090001 ()

Beginning at the Northeast Corner of the Southeast Quarter of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian; thence West 324.72 feet; thence South 16.5 feet; thence East 324.72 feet; thence North 16.5 feet to the place of beginning.

Said property is to be used by said Grantee for roadway purposes, the fee to same remaining in the said Grantors or assigns. It being further provided that in the event said Grantee shall abandon the use of said property for road purposes, her right an interest therein shall immediately terminate and cease, as granted by Right of Way Deed, recorded March 22, 1952, as Entry No. 122434, in Book 36, Page 105 of Official Records.

10. The effect of and conditions contained in Final Order of Condemnation substantially as follows: Together with any and all rights or easements appurtenant to the remaining portion of said entire tract of property by reason of the location thereof with reference to said freeway, including, without limiting the foregoing, all rights of ingress to or egress from said remaining portion, contiguous to the lands hereby conveyed, to or from said freeway, recorded October 10, 1974, as Entry No. 403484, in Book 551, Page 202 of Official Records and recorded October 10, 1974, as Entry No. 403485, in Book 552, Page 205 of Official Records.
11. The grantor has no access to the Interstate along the Westerly line of said property and the Grantor hereby releases and relinquishes to the Grantee any and all rights or easements appurtenant to the Grantors remaining property by reason of the location thereof with reference to said highway, including, without limiting the foregoing, all rights of ingress to or egress from the Grantors remaining property contiguous to the lands hereby conveyed, to or from said highway, over and across the Easterly right of way and no access line, recorded October 24, 1975, as Entry No. 421761, in Book 581, Page 665 of Official Records.
12. A perpetual easement upon part of an entire tract of property in the Northwest Quarter of the Northeast Quarter of Section 10 and in the East one-half of the Southwest Quarter of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian, for the purpose of constructing and maintaining thereon fill slopes of a freeway known as Project No. 15-7, and for the purpose of constructing and maintaining thereon irrigation facilities and appurtenant parts thereof incident to the construction of said project. The boundaries of said part of an entire tract are described as follows: Beginning at the intersection of the South Line of said Section 3 and the Northeasterly no-access line of said project, which point is approximately 2504.89 feet South 89°42'40" East from the Southwest corner of said Section 3; thence North 19°13'00" West 1834.68 feet; thence North 6° 48' 30" West 102.39 feet to a point 130.0 feet perpendicularly distant Northwesterly from the centerline of said project at Engineer Station 772+00.0; thence South 35° 55' 00" East 104.40 feet; thence South 19°13' 00 " East 1853.10 feet to said South line: thence South 19° 13' 00" East 569.62 feet; thence South 18° 44' 45" East 192.4 feet more or less, to a Southeasterly boundary line of said entire tract at a point 158.4 feet radially distant Northeasterly from said centerline; thence North 69°02' 30" West 66 feet, more or less, to a point 108.0 feet radially distant Northeasterly from said centerline at Engineer Station 745+00.0;

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01/22/2009

Escrow No.: w090001 ()

thence North 19° 13' 15" West 149.92 feet; thence North 19° 13' 00" West 588.04 feet to the point of beginning.

After said irrigation facilities are constructed on the above described part of an entire tract at the expense of said State Road Commission, said State Road Commission is thereafter relieved of any further claim or demand for costs, damages or maintenance charges which may accrue against said irrigation facilities and appurtenant parts thereof.

It is agreed hereby, that the Grantor herein, its successors or assigns, by consent of the Department of Highways, shall have the right to lessen but not to increase the vertical distance or grade of said slopes, as granted to THE STATE ROAD COMMISSION OF UTAH, by easement, recorded October 24, 1975, as Entry No. 421764, in Book 581, Page 670 of Official Records.

13. Relinquishment of Access Rights wherein Grantor forever closed that certain 20 foot access opening the Westerly right of way line of the existing Highway 91, known as Project No. F12-236(2), which access opening had been provided for in that Warranty Deed recorded as Entry No. 123579, in Book 38, Page 300 of Official Records, to-wit: The 20 foot section which centers at a point directly opposite the center line of a freeway known as Project No. 15-7, approximately at Engineer Station 771+50, said center point is approximately 170 feet East and 970 feet South from the West Quarter corner of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian, recorded October 24, 1975, as Entry No. 421765, in Book 581, Page 672 of Official Records.
14. Agreement made and executed by the RIVERSIDE STAKE OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah Corporation Sole, and the City of Kaysville, a Municipal Corporation of the State of Utah, the former being hereinafter know as the "Stake" and the latter being hereinafter known as the "City".

WHEREAS, the Stake has previously conveyed to Klod Development Co. a certain parcel of land situated in Sections 3 and 10, Township 3 North, Range 1 West, Salt Lake Meridian, comprised of approximately 27.089 acres which property is contiguous to the West to property already owned and occupied by said Klod Development Co.

AND, WHEREAS, said Klod Development Company is in the process of developing said land into a subdivision, and as a condition precedent to the acceptance of such subdivision, the City is requiring that a storm drain be installed to drain storm waters from the said subdivision.

AND WHEREAS, the Stake is the owner of property situated and lying on the West side of 50 West Street (the street bounding the West line of the subdivision to be developed by Klod Development Co. as aforesaid), which property includes an existing point, and:

WHEREAS, the Stake is willing to allow the storm drain runoff to be piped by said Klod Development Co. and/or the City of Kaysville across said 50 West Street, and to

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drain into its existing pond,

NOW THEREFORE, the aforesaid Stake does hereby give and grant unto the City the right to allow the storm drain pipe to be installed by Klod Development Co., or its assigns, to drain into the pond situated on the property owned by said Stake on the West side of 50 West Street, and East of the existing Interstate Highway, which property is situated in the South half of Section 3 and the North Half of Section 10, Township 3 North, Range 1 West, Salt Lake Meridian: recorded April 15, 1976, As Entry No. 431824 in Book 598, Page 257 of Official Records.

15. An Easement and License Agreement from RIVERSIDE STAKE CORPORATION OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, to the Cities of KAYSVILLE CITY and FRUIT HEIGHTS CITY, municipal corporations, recorded July 5, 1979, as Entry No. 537330 in Book 778, Page 617 of Official Record.
16. A perpetual easement for storm water, in that certain stream which flows across Grantors' property, together with a reasonable right to clean and maintain the same as needed. Said Stream, is more particularly described as follows: A stream that flows through the Southwest Quarter of Section 3, and the South 1/2 of Section 4 and the Northwest Quarter of Section 9. Said stream originates at the pond just West of 50 West Street and East of I-15 in Township 3 North, Range 1 West, Salt Lake Meridian, and flows Westerly to the Great Salt Lake, recorded June 16, 1981, as Entry No. 594674, in Book 870, Page 924 of Official Records, and re-recorded July 2, 1981, as Entry No. 595803, in Book 872, Page 611 of Official Records.
17. A perpetual easement and right of way over, across, under and through the following described real property for the purpose of erecting, constructing, reconstructing, replacing, removing, maintaining and using a line of electrical power poles with such wires and cables as Grantee shall from time to time suspend therefrom for the transmission of electrical energy and for communication purposes, and all necessary and proper foundations, footing, cross arms and other appliance and fixtures for use in connection with such poles, wires and cables, together with a right of way on, along and in all of the hereafter described real property:

Beginning at a point South 1° 4' 30" East 933.73 feet from the center of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian, and running thence South 86° 53' 01" West 731.36 feet, more or less, to a power pole; thence South 10.00 feet; thence North 86° 53' 01" East 731.36 feet, more or less; thence North 10.00 feet to the point of beginning. Grantor releases the Grantee from any and all claims for damages arising in any way or incident to the construction and maintenance of electrical facilities across the described land, as granted to KAYSVILLE CITY, a municipal corporation, by Grant of Easement, recorded September 19, 1983, as Entry No. 652023, in Book 959, Page 1019 of Official Records.
18. The effect of the 1969 Farmland Assessment Act, wherein there is a five year roll-back provision with regard to assessment and taxation, which becomes effective upon a change in the use of all or part of eligible land, by reason of that certain Annual Application for Assessment and Taxation of Agricultural Land, recorded December

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17, 1986, as Entry No. 764856, in Book 1131, Page 111 of Official Records, and re-recorded February 18, 1993, as Entry No. 1018311, in Book 1582, Page 615 of Official Records, and re-recorded May 5, 1994, as Entry No. 1116473, in Book 1755, Page 1341 of Official Records.

19. A vehicular right of way for ingress and egress across said property for access to all head gates and water systems for grantors operation, maintenance and repair. Also reserving unto grantor an easement for flood waters to rise above 4307 feet in elevation from sea level, as reserved in Special Warranty Deed, recorded May 4, 1994, as Entry No. 1116029, In Book 1755, Page 164 of Official Records.
20. An Easement from Utah State University to Kaysville City for a perpetual easement 10 feet wide, upon part of an entire tract of property, in the Southwest Quarter of Section 3, Township 3 North, Range 1 West, Salt Lake Base and Meridian, for the purpose of constructing thereon electrical and/or power facilities and appurtenant parts thereof incident to the CCTV Project known as Project No. F-R1999(25).

The boundaries of said part of an entire tract are described as follows:

Beginning at a point approximately 255.72 feet West and 1243.07 feet South from the Southwest corner of the Northeast Quarter of said Section 3, as described in that certain conveyance to the Utah State University of Agriculture and Applied Science by Special Warranty Deed in the Davis County Recorder's office and recorded as Entry No. 1116029 in Book 1755 at Page 164: thence South 47° 16' 24": East 5.00 feet; thence South 42° 43' 36" West 208.37 feet to a point of tangency with a 105.00 foot radius curve to the right; thence 48.43 feet along the arc of said curve through a central angle of 26° 25' 32" (chord bears South 55° 56' 22" West 48.00 feet); thence South 69° 09' 08" West 121.13 feet more or less to the easterly Highway Right-of-Way and Non-Access Line of I-15, which line is also the westerly line of the said Utah State University property; thence North 19° 15' 57" West 10.00 feet along the said easterly Highway Right-of-Way and Non-Access line (record Utah State University property bearing is North 19° 33' 08" West); thence North 69° 09' 08" East 120.85 feet to a point of tangency with a 65.00 foot radius curve to the left; thence 43.82 feet along the arc of said curve through a central angle of 26° 25' 32" (chord bears North 55° 56' 22" East 43.43 feet); thence North 42° 43' 36" East 208.37 feet; thence South 47° 16' 24" East 5.00 feet to the point of beginning.

The above describes part of an entire tract contains 3,755 square feet in the area of 0.0862 acres, more or less.

A Right of Way transfer by and between Utah State University of Agriculture and Applied Science and Kaysville City, whereas Utah State University agrees to transfer said property to Kaysville City without monetary compensation, and to deliver the properly executed perpetual easement, with any and all releases necessary to provide clear title. Utah State University will receive approximately \$6,000.00 worth of work to be performed by UDOT on their behalf at the subject easement site described in more detail in the Right of Way Contract.

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The name(s) Utah State University of Agricultural and Applied Science , has/have been checked for judgments, State and Federal tax liens, and bankruptcies and if any were found, are disclosed herein.

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SCHEDULE C**Description**

The land referred to in this report is situated in the County of Davis, State of UT, and is described as follows:

All that part of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian, more particularly described as follows:

Commencing at the Southwest corner of the Northeast Quarter of said Section 3; thence South 3.24 feet; thence East 24.62 feet to an existing fence corner marking the West right of way line for 50 West Street and the East boundary of the property described in that certain Warranty Deed, recorded August 18, 1956, as Entry No. 159333, Book 110, at Page 510 of the Official Records of Davis County, said fence corner also being the Point of Beginning for the tract of land to be herein described; thence South 1° 51' 09" West 479.76 feet; thence South 1° 13' 09" East along said East Boundary 363.64 feet to an existing fence corner; thence South 1° 13' 09" East along an existing fence line 493.01 feet; thence South 3° 52' 57" East along an existing fence line 1202.12 feet; thence South 7° 02' 00" East along an existing fence line 252.44 feet; thence South 0° 28' 49" East along an existing fence line 132.93 feet to the end of said fence line; thence South 0° 28' 49" East 420.30 feet to a point on an existing fence line; thence North 69° 59' 38" West along said existing fence line 23.43 feet to an existing Utah Department of Transportation Highway right of way marker, said point being on the East boundary of the property described in that certain Final Order of Condemnation, recorded October 10, 1974, as Entry No. 403484, in Book 552, at Page 202 of the Official Records of Davis County, and Entry No. 403485, in Book 552, at page 205 of the Official Records of Davis County, and said point being also on the Eastern Boundary of the certain property described in a Quit Claim Deed, recorded October 24, 1975, as Entry No. 421761, in Book 581, at Page 665 of the Official Records of Davis County; thence running along the said East Boundary the following described courses and distances; thence North 19° 33' 08" West 2570.18 feet; thence North 7° 08' 42" West 102.39 feet to an existing Utah Department of Transportation highway right of way marker, thence North 19° 33' 12" West 1100.49 feet to an existing Utah Department of Transportation highway right of way marker; thence North 16° 40' 12" West 200.28 feet to an existing Utah Department of Transportation highway right of way marker; thence North 19° 33' 33" West, 397.18 feet, more or less to an existing fence line, said point being on the North boundary of the property described in that certain Warranty Deed recorded May 15, 1974, as Entry No. 395506, in Book 540 at Page 90 of the Official Records of Davis County; thence North 88° 44' 22" East along an existing fence line and the North boundary of the property so described in said Deed, 915.40 feet; thence South 89° 25' 41" East, along said North boundary 451.23 feet to an existing fence corner; thence South 2° 24' 25" West along an existing fence line 637.81 feet; thence South 1° 51' 09" West along an existing fence line 174.09 feet to the point of beginning.

Said property is also known by the street address of:
 , Kaysville, UT