

10359478

10359478
2/28/2008 9:02:00 AM \$20.00
Book - 9575 Pg - 6471-6476
Gary W. Ott
Recorder, Salt Lake County, UT
FIRST AMERICAN TITLE
BY: eCASH, DEPUTY - EF 6 P.

When Recorded Return to:
OM Enterprises Company
5295 South 300 West Ste 475
Murray, Utah 84107

WATER PIPE LINE EASEMENT AGREEMENT

THIS WATER PIPE LINE EASEMENT AGREEMENT ("Easement Agreement") is entered into this 14th day of February, 2008 by and between OM ENTERPRISES CO, a Utah Corporation ("Grantor"), and DAYBREAK SECONDARY WATER DISTRIBUTION COMPANY, a Delaware corporation ("Grantee").

1 Grant of Easement.

1.1 Grantor hereby conveys to Grantee a permanent, non-exclusive easement solely for the construction, operation, inspection, maintenance, repair, replacement, alteration and removal of 3 underground secondary water distribution pipe lines, together with vents, valves, drain lines, service vaults and other appurtenant facilities (collectively the "Lines") across the land of Grantor located in Salt Lake County, Utah, described on Exhibit "A" attached hereto and incorporated herein by reference (the "Easement Area").

1.2 The use of the Easement Area by Grantee shall be in a manner calculated to cause the least inconvenience to the ownership, use and enjoyment by Grantor of the Easement Area and other property of Grantor, consistent with the practical use thereof by Grantee for the purposes above stated.

1.3 The Lines shall be constructed and maintained at a minimum depth of four (4) feet below surface grade (measured to the top of the Lines); provided, however, that appurtenant facilities such as vents, valves, drain lines and service vaults may be constructed and maintained at or below surface grade.

1.4 Grantee shall (i) obtain, at Grantee's sole cost and expense, all necessary permits and licenses from public authorities for the activities permitted herein; and (ii) comply with all applicable laws and regulations regarding such activities.

1.5 Promptly after any activity permitted under this Easement Agreement that requires disturbance of the surface of the Easement Area, Grantee shall use commercially reasonable efforts to return the surface of the Easement Area to its approximate original condition prior to the activity.

2 Use of Easement Area by Grantor. Grantee agrees that Grantor and its employees, agents, invitees, lessees and assigns may use the Easement Area for any purpose that does not materially interfere with Grantee's use and enjoyment of the Easement Area as provided for in Section 1.

3 Indemnification. Grantee agrees to indemnify and hold harmless Grantor, its parents and affiliates, and all of their respective officers, directors, employees and agents (collectively the "Grantor Indemnitees") from and against any and all loss and expense, including attorneys' fees and other legal expenses, by reason of liability imposed or claimed to be imposed by law upon any Grantor Indemnitee and arising out of or in any manner connected with Grantee's exercise of its rights or performance of its obligations under this Easement Agreement, including liability and claims for (i) damage because of bodily injuries, including death, sustained by any person or persons; (ii) damage to property sustained by any person or persons; (iii) damages, costs or claims arising from or relating to actual or alleged environmental contamination or pollution or the actual or alleged violation of any current or future federal, state or local environmental law, regulation or ruling; or (iv) any other loss or damage suffered or incurred by any Grantor Indemnitee (items (i) through (iv) are collectively referred to as "Liabilities"). Grantee shall indemnify and save the Grantor Indemnitees harmless from and against Liabilities, whether or not such Liabilities arise or are claimed to have arisen in whole or in part out negligence or any other grounds of legal liability, including violation of any duty imposed by statute, ordinance or regulation, but excluding any Liabilities caused by the negligence or the willful misconduct of a Grantor Indemnitee.

4 Relocation. If at any time Grantee's use of the Easement Area or any portion thereof shall interfere with any operations of Grantor, whether or not such operations are now in existence, Grantee shall, upon request from Grantor, relocate the Lines or portion thereof on other land provided by Grantor so as to avoid such interference. In such event, Grantee shall execute and deliver a recordable instrument terminating this Easement Agreement as to the affected portion of the Easement Area, and Grantor shall grant Grantee an easement on the land upon which the Lines are to be relocated on terms and conditions similar to those contained in this Easement Agreement. The reasonable cost of such relocation shall be borne by Grantor.

5 Termination. This Easement Agreement shall terminate if the Easement Area is not used for the purposes permitted herein for a continuous period of one year. Upon any termination of this Easement Agreement, Grantee shall, upon the request of Grantor, (i) promptly remove all Lines and reclaim the Easement Area in accordance with Section 1.5 above, and (ii) execute and deliver to Grantor a recordable instrument reasonably acceptable to Grantor terminating this Agreement.

6 Assignment. Grantee shall not assign this Easement Agreement or otherwise transfer or encumber the Easement Area or the other rights granted herein without the prior written consent of Grantor, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Grantee shall be permitted to assign this Easement Agreement to an entity acquiring all or substantially all the assets of Grantee without the consent of Grantor.

7 No Warranties. Grantee accepts the Easement Area in "as is" condition. Grantor makes no representations or warranties concerning the physical condition of the

Easement Area or its suitability for Grantee's intended purpose. The easement hereby granted is subject to (i) all matters of record; (ii) other existing private, public and utility easements, if any; (iii) roads and highways, if any; (iv) drainage ditches, feeders, laterals, drain tile, pipes or other conduit, if any; (v) zoning laws and ordinances; and (vi) all matters (including but not limited to encroachments) which would be disclosed by an accurate survey and/or physical inspection of the Easement Area.

IN WITNESS WHEREOF, Grantor and Grantee have caused this Easement Agreement to be executed as of the date first above written.

Grantor:

OM ENTERPRISES CO, a Utah Corporation

By



Print Name

M. BRUCE SMIDER

Its

VICE PRESIDENT

Grantee:

DAYBREAK SECONDARY WATER DISTRIBUTION COMPANY, a Delaware corporation

By



Print Name

VAN KING

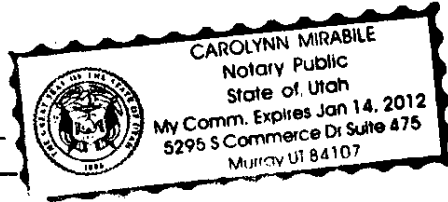
Its

Director

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 14th day of February, 2008, by m Bruce Snyder as Vice President of OM ENTERPRISES CO, a Utah Corporation

Carolynn Mirabile
NOTARY PUBLIC
Residing at: _____
My Commission Expires: _____



STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 14th Day of February 2008, by Van King as Director of Daybreak Secondary Water Distribution Company, a Delaware corporation.

Carolynn Mirabile
NOTARY PUBLIC
Residing at: _____
My Commission Expires: _____

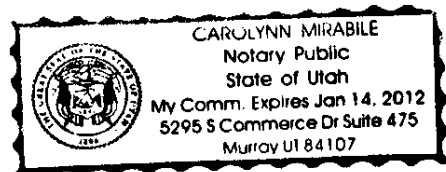


Exhibit "A"



Affecting Tax ID Nos. 26-14-100-007-4001
26-14-200-006-4002

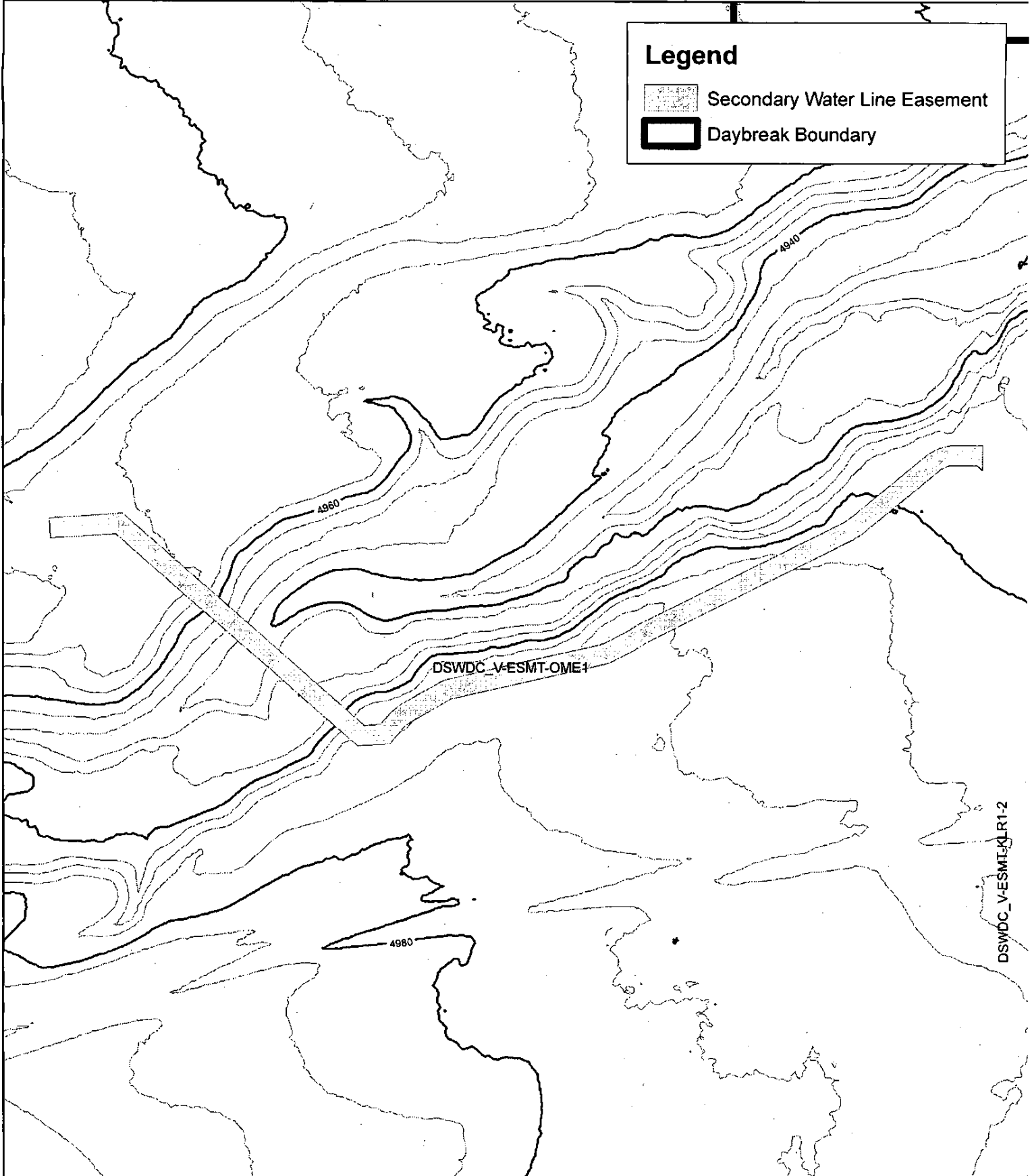
A perpetual easement upon part of an entire tract of property, located in the North Half of Section 14, Township 3 South, Range 2 West, Salt Lake Base and Meridian, for the purpose of constructing and maintaining thereon a secondary water irrigation facility and appurtenant parts thereof. The boundaries of said part of an entire tract are described as follows:

Beginning at a point N00°02'49"E 1083.87 feet along the Section Line and West 1504.99 feet from the East Quarter Corner of Section 14, Township 3 South, Range 2 West, Salt Lake Base and Meridian; and running thence N45°00'00"W 10.91 feet; thence West 33.57 feet; thence Southwesterly 27.93 feet along the arc of a 40.00 foot radius curve to the left, chord bears S70°00'00"W 27.36 feet; thence S50°00'00"W 148.31 feet; thence Southwesterly 15.43 feet along the arc of a 68.00 foot radius curve to the right, chord bears S56°30'00"W 15.40 feet; thence S63°00'00"W 344.01 feet; thence Southwesterly 3.99 feet along the arc of a 40.00 foot radius curve to the left, chord bears S60°08'41"W 3.99 feet; thence S57°17'22"W 15.11 feet; thence Southwesterly 5.98 feet along the arc of a 60.00 foot radius curve to the right, chord bears S60°08'41"W 5.98 feet; thence S63°00'00"W 38.60 feet; thence Southwesterly 14.66 feet along the arc of a 60.00 foot radius curve to the right, chord bears S70°00'00"W 14.62 feet; thence S77°00'00"W 228.07 feet; thence Southwesterly 11.87 feet along the arc of a 40.00 foot radius curve to the left, chord bears S68°30'00"W 11.82 feet; thence S60°00'00"W 63.83 feet; thence Southwesterly 13.26 feet along the arc of a 40.00 foot radius curve to the left, chord bears S50°30'00"W 13.20 feet; thence S41°00'00"W 32.60 feet; thence S86°00'00"W 48.90 feet; thence N49°00'00"W 483.97 feet; thence S86°00'00"W 99.79 feet; thence N04°00'00"W 30.00 feet; thence N86°00'00"E 112.22 feet; thence S49°00'00"E 483.97 feet; thence N86°00'00"E 24.05 feet; thence N41°00'00"E 20.18 feet; thence Northeasterly 23.21 feet along the arc of a 70.00 foot radius curve to the right, chord bears N50°30'00"E 23.11 feet; thence N60°00'00"E 63.83 feet; thence Northeasterly 20.77 feet along the arc of a 70.00 foot radius curve to the right, chord bears N68°30'00"E 20.69 feet; thence N77°00'00"E 228.07 feet; thence Northeasterly 7.33 feet along the arc of a 30.00 foot radius curve to the left, chord bears N70°00'00"E 7.31 feet; thence N63°00'00"E 38.60 feet; thence Northeasterly 2.99 feet along the arc of a 30.00 foot radius curve to the left, chord bears N60°08'41"E 2.99 feet; thence N57°17'22"E 15.11 feet; thence Northeasterly 6.98 feet along the arc of a 70.00 foot radius curve to the right, chord bears N60°08'41"E 6.97 feet; thence N63°00'00"E 344.01 feet; thence Northeasterly 8.62 feet along the arc of a 38.00 foot radius curve to the left, chord bears N56°30'00"E 8.60 feet; thence N50°00'00"E 148.31 feet; thence Northeasterly 48.87 feet along the arc of a 70.00 foot radius curve to the right, chord bears N70°00'00"E 47.88 feet; thence East 41.32 feet; thence S00°02'49"W 37.72 feet to the point of beginning.
Contains 49,170 Square Feet or 1.129 Acres

DSWDC_V-ESMT-OME1

Legend

-  Secondary Water Line Easement
-  Daybreak Boundary



The information on this map is based on the most current information available to Kennecott Land and should be used for planning purposes only. No warranty expressed or implied is made regarding the accuracy or utility of the data for general or scientific purposes, nor shall the act of distribution constitute any such warranty.

BK 9575 PG 6476

Kennecott *Land*

