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2024 AUG -5 AM 8:59

IN SUPERIOR COURT  
JEFFERSON COUNTY CLERK

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR JEFFERSON COUNTY

24-2-00162-16

RICK MARTIN ALLEN and MARIA  
KATHERINE MCGRANE, TRUSTEES OF  
THE ALLEN-MCGRANE LIVING TRUST  
dated March 12, 2024; ROBERT W. BURNS  
and SUZANNE L. BURNS, husband and wife;  
JEFFREY G. STOCH and MARY MAHALA  
HENRY; JULIANNA J. STEVELEY and  
JOHN R. STEVELEY, wife and husband;  
CURTIS K. UEDA and DEBRA J. UEDA,  
husband and wife; STEPHAN G. BAILEY and  
SUSAN K. BAILEY, TRUSTEES OF THE  
BAILEY FAMILY TRUST dated 12/11/19,

NO.

SUMMONS

Plaintiffs,

v.

BYWATER WAY ROAD MAINTENANCE  
ASSOCIATION; JAMES J. MCGILLIS and  
JANE DOE MCGILLIS, husband and wife;  
ILONA BELL and JOHN DOE BELL, wife and  
husband; JOHN AND JANE DOES, I  
THROUGH V,

Defendants.

**TO THE DEFENDANTS:**

A lawsuit has been started against you in the above-entitled Court by Plaintiffs. Plaintiffs' claim is stated in the written Complaint, a copy of which is served upon you with this Summons.

In order to defend against the lawsuit, you must respond to the Complaint by stating your defense in writing, and serve a copy upon the person signing this Summons within twenty (20)

SUMMONS - 1

KITSAP LAW GROUP  
3212 NW Byron Street, Suite 101  
Silverdale, WA 98383  
Telephone (360)692-6415  
Fax (360)692-1257

3

1 days after the service of the Summons, excluding the day of service, or sixty (60) days if this  
2 Summons was served on you outside of the State of Washington, or a default judgment may be  
3 entered against you without notice. A default judgment is one where Plaintiff is entitled to what he  
4 asks for because you have not responded. If you serve a notice of appearance on the undersigned  
attorney you are entitled to notice before a default judgment may be entered.

5 You may demand that Plaintiff file this lawsuit with the Court. If you do so, the demand  
6 must be in writing and must be served upon the person signing this Summons. Within fourteen  
7 (14) days after you serve the demand, the Plaintiff must file this lawsuit with the Court, or the  
service on you of this Summons and Complaint will be void.

8 If you wish to seek the advice of an attorney in this matter, you should do so promptly so  
9 that your written response, if any, may be served on time.

10 This Summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the State of  
11 Washington.

12 **DATED** this 2nd day of August 2024.

13 **KITSAP LAW GROUP**

14 /s/David A. Weibel

15 **DAVID A. WEIBEL, WSBA #24031**

16 **MEG M. HAAS, WSBA #60314**

17 **Attorney for Plaintiffs**

18 **PLEASE FILE YOUR ORIGINAL RESPONSE WITH:**

19 Street Address:

20 Jefferson County Superior Court Clerk

21 1820 Jefferson Street, Room 210

22 Port Townsend, WA 98368

23 Mailing Address:

24 PO Box 1220

25 Port Townsend, WA 98368

**SERVE A COPY OF YOUR RESPONSE ON:**

David A. Weibel

KITSAP LAW GROUP

3212 NW Byron Street, Suite 101

Silverdale, WA 98383

SUMMONS - 2

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IN AND FOR JEFFERSON COUNTY

RICK MARTIN ALLEN and MARIA  
KATHERINE MCGRANE, TRUSTEES OF  
THE ALLEN-MCGRANE LIVING TRUST  
dated March 12, 2024; ROBERT W. BURNS  
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HENRY; JULIANNA J. STEVELEY and  
JOHN R. STEVELEY, wife and husband;  
CURTIS K. UEDA and DEBRA J. UEDA,  
husband and wife; STEPHAN G. BAILEY and  
SUSAN K. BAILEY, TRUSTEES OF THE  
BAILEY FAMILY TRUST dated 12/11/19,

Plaintiffs,

v.

BYWATER WAY ROAD MAINTENANCE  
ASSOCIATION; JAMES J. MCGILLIS and  
JANE DOE MCGILLIS, husband and wife;  
ILONA BELL and JOHN DOE BELL, wife and  
husband; JOHN AND JANE DOES, I  
THROUGH V,

Defendants.

NO. 24-2-00162-16

COMPLAINT

COME NOW the Plaintiffs and allege as follows:

I. PARTIES, JURISDICTION AND VENUE

1.1 Plaintiffs. The following parties are plaintiffs in this action.

COMPLAINT -1-

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2



1 a. RICK MARTIN ALLEN and MARIA KATHERINE MCGRANE, TRUSTEES  
2 OF THE ALLEN-MCGRANE LIVING TRUST dated March 12, 2024, own that certain parcel of  
3 real property commonly known as 64 HoodsvieW Ct., Port Ludlow, WA 98365, and identified as  
4 Tax Parcel Number 821355021/21045, by virtue of that Statutory Warranty Deed recorded under  
5 Jefferson County AFN 665045.

6 b. ROBERT W. BURNS and SUZANNE L. BURNS, are husband and wife, and  
7 owners of that certain parcel of real property commonly known as 124 Hoods View Ct., Port  
8 Ludlow, WA 98365, and identified as Tax Parcel Number 821355022, by virtue of that certain  
9 Statutory Warranty Deed and recorded under Jefferson County AFN 440715.

10 c. JULIANNA J. STEVELEY and JOHN R. STEVELEY, are wife and husband, and  
11 owners of that certain parcel of real property commonly known as 143 Bridgeview Pl., Port  
12 Ludlow, WA. 98365, and identified as Tax Parcel Number: 821355006, by virtue of that certain  
13 Statutory Warranty Deed and recorded under Jefferson County AFN 417693.

14 d. JEFFREY G. STOCH and MARY MAHALA HENRY are the owners of that  
15 certain parcel of real property commonly known as 194 Hoods View Ct., Port Ludlow, WA 98365,  
16 and identified as Tax Parcel Number 821355024, by virtue of that certain Statutory Warranty Deed  
17 and recorded under Jefferson County AFN 319982.

18 e. CURTIS K. UEDA and DEBRA J. UEDA, are husband and wife, and owners of  
19 that certain parcel of real property commonly known as 720 Olympic Ridge Dr., Port Ludlow, WA  
20 98365, and identified as Tax Parcel Number 82135504,1 by virtue of that certain Statutory  
21 Warranty Deed and recorded under Jefferson County AFN 433424.

22 f. STEPHAN G. BAILEY and SUSAN K. BAILEY, TRUSTEES OF THE BAILEY  
23 FAMILY TRUST dated 12/11/19 own that certain parcel of real property commonly known as



1 222 Hoods View Ct., Port Ludlow, WA 98365, and identified as Tax Parcel Number 821355025,  
2 by virtue of that certain Statutory Warranty Deed and recorded under Jefferson County AFN  
3 629466.

4 1.2 Defendants.

5 a. BYWATER WAY ROAD MAINTENANCE ASSOCIATION (BWRMA) is a  
6 Washington nonprofit corporation doing business in Jefferson County, Washington.

7 b. JAMES J. MCGILLIS and JANE DOE MCGILLIS (McGillis) are husband and  
8 wife and reside in Jefferson County, Washington.

9 c. ILONA BELL and JOHN DOE BELL (Bell) are wife and husband and reside in  
10 Jefferson County, Washington.

11 1.3 Remaining Defendants. JOHN AND JANE DOES, I THROUGH V. The true  
12 names of any Defendants designated John Doe or Jane Doe are unknown to Plaintiff, but said  
13 Defendants are, or may be, involved in the acts complained of herein.

14 1.4 Jurisdiction. This Court has subject matter jurisdiction as the claims involve title to  
15 real property located in Jefferson County, Washington.

16 1.5 Venue. Venue is proper in this Court.

17 II. UNDERLYING FACTS

18 2.1 The Plaintiffs' properties were created as part of a development by Pope Resources,  
19 a Delaware limited partnership.

20 2.2 On November 16, 1988, Pope Resource executed an instrument entitled "Covenants  
21 and Private Road Easement and Maintenance Agreement," that was recorded on December 12,  
22 1988, under Jefferson County Auditor File No. 318666 (the "1988 Covenant"). Attached hereto  
23 as *Exhibit A* is a true and correct copy of the 1988 Covenant.





1           3.2. Resignation, Death or Unavailability of Contractor. If the then existing  
2 Contractor resigns, dies or becomes incapable of for any reason of  
3 performing the Road Maintenance, and a new Contractor must be hired,  
4 then a majority of the Lot Owner shall have 180 days ... to hire a new  
5 Contractor to perform the Road Maintenance on behalf of all lot owners. If  
6 a majority of the Lot Owners are unable to agree on a new Contractor within  
7 the 180 day period, then any group of Lot Owners owning at least ten  
8 percent of the Lots shall be entitled to hire a new Contractor to perform  
9 Road Maintenance on behalf of all the Lot Owners, on terms consistent with  
10 Section 1 and shall promptly notify the other Lot Owners of the new  
11 Contractor and the estimated Maintenance Fees for the upcoming year....

12           2.6    Responsibility for enforcement of the Covenants lies with "Pope and its heirs,  
13 successors and assigns, and any Lot Owner."

14           2.7    Neither the 1988 Covenant nor the 1989 Covenant provide for the organization of  
15 a homeowner association.

16           2.8    The prevailing party in any suit, action or appeal to enforce or interpret the 1989  
17 Covenant is entitled to an award of their reasonable attorneys' fees and costs.

18           2.9    The Plaintiffs' properties are subject to the 1988 Covenant and 1989 Covenant.

19           2.10   As of May 1, 2024, at least 112 Lots and Lot Owners were subject to the 1988  
20 Covenant and the 1989 Covenant.

21           2.11   The BWRMA was formed in June 2000 by three Lot Owners: James McGillis,  
22 Roger Dun and Ken Patterson. None of these individuals are or were officers or agents of Pope  
23 Resources, nor successors and assigns of its rights as the developer. Over the years, the BWRMA  
24 and its principals have sought to collect payments from Plaintiffs and other Lot Owners ostensibly  
25 as a homeowners association.

          2.12   By letter dated March 29, 2024, attorney Jennifer DeWinter with the Condominium  
Law Group wrote on behalf of the defendants to the Lot Owners, in part, asserting its right to  
amend the 1988 Covenant and the 1989 Covenant under RCW 64.38.



1           2.13   On April 11, 2024, attorney Craig L. Jones wrote to the defendants stating “The  
2 Association has no authority over the Lots or Road within the properties it is claiming the right to  
3 govern....” Further, contrary to the requirements of RCW 64.38, the 1988 Covenant and the 1989  
4 Covenants, do “not provide for any homeowner association,” nor allow for amendment for less  
5 than 100% of the lot owners. Lastly, this letter specifically stated “the Association has no right to  
6 execute and record any amendments to the covenants, conditions or restrictions, or any other  
7 document, without the signature of all Lot Owners.”

8           2.14   On April 16, 2024, attorney Issac Anderson wrote to attorney DeWinter to dispute  
9 the right of the defendants to amend the 1988 Covenant and the 1989 Covenant. Anderson, in part,  
10 states, “I cannot find any delegation of authority from either Pope (the declarant) or the lot owners  
11 to the Bywater Association to oversee or enforce these covenants, or to act as a homeowners  
12 association.” In response to Anderson’s repeated inquiries, Ms. DeWinter responded on May 3,  
13 2024, “I do not have authority from my client to discuss this issue further.”

14           2.15   On May 17, 2024, Plaintiffs’ counsel wrote to Ms. De Winter disputing the right of  
15 the defendants to amend the 1988 Covenant and the 1989 Covenant: “a review of these documents  
16 reflects they do not provide for a homeowners’ association, common interest community, or other  
17 managing association as asserted by BWRMA.”

18           2.16   On May 20, 2024, James J. McGillis and Ilona C. Bell executed an instrument  
19 entitled “Amendment to the Covenants and Private Road Easement and Declaration of Road  
20 Maintenance for Bywater Way Road Maintenance Association” that was recorded on May 31,  
21 2024, under Jefferson County Auditor File No. 666116 (the “2024 Covenant”).

22           2.17   McGillis and Bell signed the 2024 Covenant despite receiving notice that the  
23 defendants lacked authority to amend the Covenants.

1           2.18   The 2024 Covenant is a restrictive covenant recorded against approximately 112  
2 Lots, including the Plaintiffs' properties.

3           2.19   The 2024 Covenant was prepared and recorded by the Condominium Law Group  
4 after receiving notice that BWRMA lacked authority to amend the Covenants.

5           2.20   The 2024 Covenant falsely states that the "Covenants and Private Road Easement  
6 and Maintenance Agreement for Bywater Way Road Maintenance Association was recorded on  
7 December 12, 1988."

8           2.21   The 1988 Covenant makes no provision for the organization of a homeowners  
9 association, let alone one named the "Bywater Way Road Maintenance Association."

10          2.22   The 2024 Covenant falsely states that the "Declaration of Road Maintenance for  
11 Bywater Way Road Maintenance Association was recorded on January 18, 1989."

12          2.23   The 1989 Covenant makes no provision for the organization of a homeowners  
13 association let alone one named the "Bywater Way Road Maintenance Association."

14          2.24   The 2024 Covenant stated the BWRMA desires to take advantage of RCW 64.90  
15 to amend the Declaration.

16          2.25   The 1988 Covenant and the 1989 Covenant makes no provision for a homeowners  
17 association to amend the covenants, and RCW 64.90 only applies to HOAs created on or after July  
18 1, 2018, and does not apply to "An easement or covenant that requires the owners of separately  
19 owned parcels of real estate to share costs or other obligations associated with a party wall,  
20 driveway, well, or other similar use does not create a common interest community." RCW  
21 64.90.115.

22          2.26   As a direct and proximate result of Defendants' conduct, Plaintiffs have been  
23 damaged in an amount to be proven at trial.

24 COMPLAINT -7-

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1 III. CAUSES OF ACTION

2 A. Declaratory Relief

3 3.1 Pursuant to RCW 7.24 et seq., Plaintiffs re-alleges and incorporate by reference  
4 Paragraphs 1.1 through 2.26 as though fully set forth herein.

5 3.2 Plaintiffs are entitled to an order declaring that the 2024 Covenant is null and void  
6 and of no force or effect as to any of the Plaintiffs' properties.

7 B. Injunctive Relief

8 3.3 Plaintiffs re-alleges and incorporate by reference Paragraphs 1.1 through 2.26 as  
9 though fully set forth herein.

10 3.4 Plaintiffs are entitled to the entry of a mandatory injunction ordering the  
11 Defendants to record a notice rescinding their 2024 Covenant at Defendants' sole cost and  
12 expense.

13 3.5 Plaintiffs are entitled to the entry of a preliminary and permanent injunction  
14 enjoining the Defendants' from taking any action in conflict with the 1988 Covenant and 1989  
15 Covenant.

16 C. Consumer Protection Act Violation

17 3.6 Plaintiffs re-alleges and incorporate by reference Paragraphs 1.1 through 2.26 as  
18 though fully set forth herein.

19 3.7 The acts and omissions of the Defendants are unfair and deceptive, affect the  
20 public interest and violate RCW 19.86. Plaintiffs have suffered injury as a direct and proximate  
21 result of Defendants' actions in an amount to be proven at trial.

22 IV. PRAYER FOR RELIEF

23 Plaintiffs pray for relief as follows:





# **EXHIBIT A**

318666

COVENANTS AND PRIVATE ROAD EASEMENT AND MAINTENANCE AGREEMENT

KNOW ALL MEN BY THESE PRESENTS that I/we, the undersigned applicant/owner of the land herein described do hereby declare, grant, and establish the private road easement which lies within this division and which is graphically represented on the map which is a part of this subdivision;

SUBJECT TO THE FOLLOWING COVENANTS AND CONDITIONS:

- 1. That the purpose of said easement is for ingress, egress and for utilities, and for the construction, use and maintenance thereof.
2. When a majority of the lot owners decide that maintenance is needed on the easement roads, the expense shall be borne in equal shares by the owners of all lots adjoining said easements or their heirs, assigns or successors, unless and until such roads are improved to county standards and are dedicated to and accepted by Jefferson County.
3. That this private road will be subject to a utilities easement in favor of the grantor or his successors and of any electric, telephone, television cable, gas, water or sewer company, public or private, or their permittees or assigns to install, construct, operate, maintain, alter, and repair their respective utilities, together with the right of ingress and egress for said purposes.
4. That this private road described by this declaration, whether it remains private or becomes a dedicated County road, there is the additional right to make all necessary slopes for cuts and fills, and the right to continue to drain said roads and ways over and across any lot or lots where water might take a natural course upon reasonable grading pursuant to improvement for dedication of the road shown herein.
5. This easement shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the land described herein or any part thereof.
6. That these covenants are for the mutual benefit of the grantor and his heirs, successors and assigns, and are for the further purpose of compliance with the resolutions and regulations of Jefferson County and that the County and such persons are specifically given the right to enforce the restrictions and reservations by injunction or other lawful procedure and to recover any damage resulting from such violation.
7. No mobile homes shall be permitted on herein described property, stick built homes only.
8. No abandoned cars or junk shall be allowed on herein described property.

RECORDED IN 269 PAGE 398 461
OF OFFICIAL RECORDS
REQUEST OF
JEFFERSON TITLE COMPANY
1988 DEC 12 PM 3:26

J. W. Folger
POPE RESOURCES,
A Delaware Limited P...



STATE OF WASHINGTON
COUNTY OF ...
On this day personally appeared before me ...

to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that ... signed the same as ... free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this ... day of ... 1988

VOL 269 PAGE 398

Notary Public in and for the State of Washington, ...

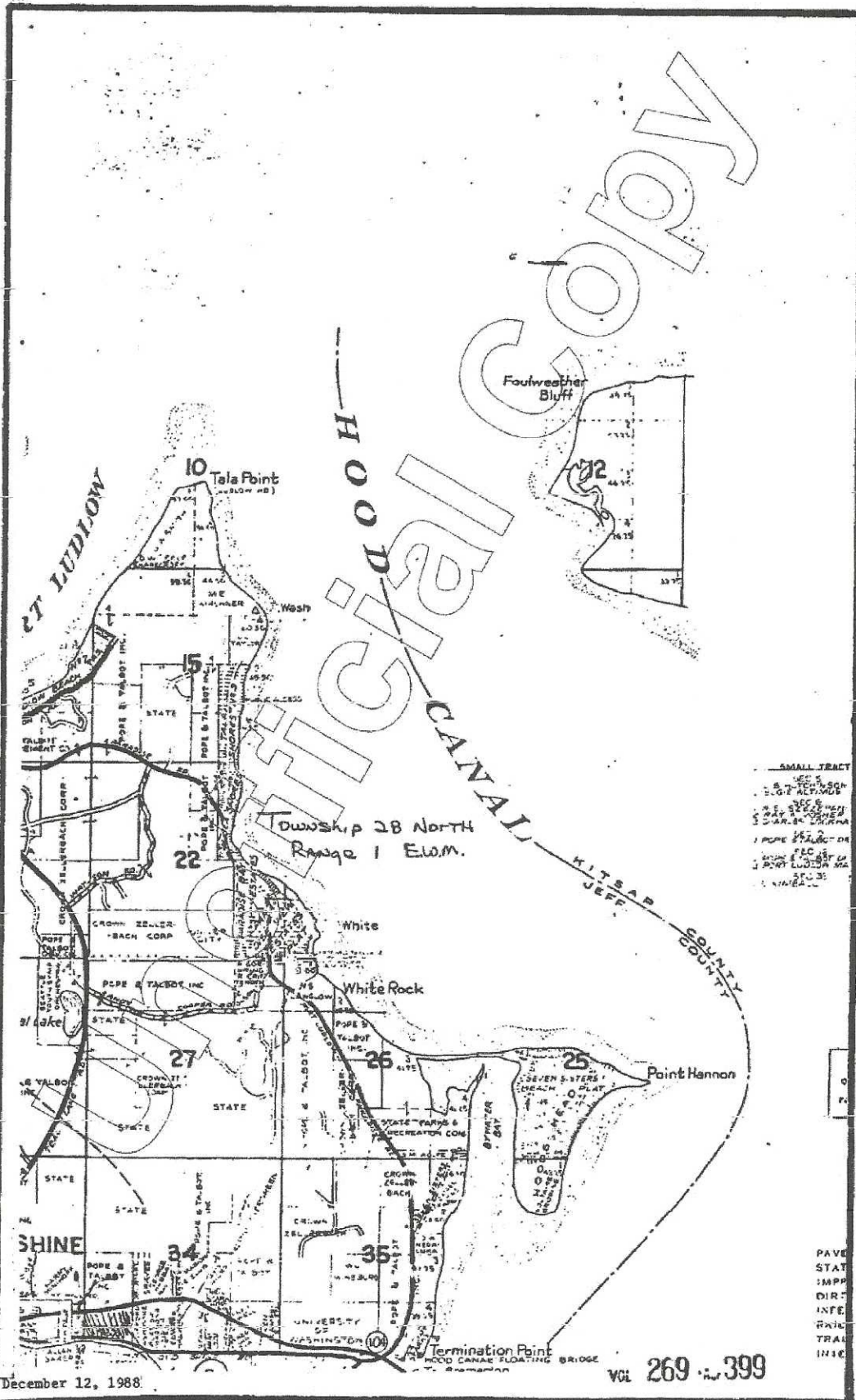
December 12, 1988

STATE OF WASHINGTON
COUNTY OF King
On this 16th day of November, 1988, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared G.H. Folger

and to me known to be the ... President and ... Secretary, respectively, of Pope Resources the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on each stated that he is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation. Witness my hand and official seal hereon affixed the day and year first above written.

Notary Public in and for the State of Washington, residing at ...





December 12, 1988

VCL 269 399

SMALL TRACT  
 SEC 10  
 SEC 15  
 SEC 22  
 SEC 25  
 SEC 27  
 SEC 34  
 SEC 35

PAVE  
 STAT  
 IMPP  
 DIRT  
 INFE  
 RAIL  
 TRAIL  
 INLE

LEGAL DESCRIPTION

That portion of Sections 26 and 35 in Township 28 North, Range 1 East of the Willamette Meridian in Jefferson County, Washington, and more particularly described as follows:

Commencing at the Northwest Corner of said Section 26; thence South 00°03'58" West along the west line of the Northwest Quarter of said Section 26 a distance of 1328.14 feet, to a D.N.R. monument at the Northwest Corner of the Southwest Quarter of the Northwest Quarter of said Section 26 and the Point of Beginning; thence South 00°05'35" West along the west line of the Northwest Quarter of said Section 26 a distance of 1328.23 feet, to a D.N.R. monument at the West Quarter Corner of said Section 26; thence South 01°16'05" West 2675.39 feet, to a D.N.R. monument at the Southwest Corner of said Section 26; thence South 01°28'55" West 2611.92 feet, to a D.N.R. monument at the West Quarter Corner of said Section 35; thence South 01°30'04" West along the west line of the Southwest Quarter of said Section 35 a distance of 1306.12 feet to a D.N.R. monument at the Southwest Corner of the Northwest Quarter of the Southwest Quarter of said Section 35; thence South 89°05'23" East 2633.19 feet to the Northeast Corner of the South Half of the Southwest Quarter of said Section 35; thence South 01°16'31" West along the east line of the South Half of the Southwest Quarter of said Section 35 a distance of 1048.94 feet to the northeasterly margin of State Highway 104; thence southeasterly along said margin on a curve concave southwesterly having a radius of 1827.10 feet which bears South 12°34'12" West, for an arc distance of 612.57 feet and a central angle of 19°12'34", to the south line of the Southeast Quarter of said Section 35; thence North 83°56'06" East along the south line of the Southeast Quarter of said Section 35 a distance of 178.50 feet; thence North 25°35'00" East 85.66 feet; thence North 37°57'00" East 92.67 feet; thence North 35°55'00" East 264.54 feet; thence North 40°50'30" East 323.52" to the Government Meander Line; thence along the Government Meander Line North 14°04'01" East 706.23 feet; thence North 05°38'38" East 853.05 feet, to the north line of the Southeast Quarter of said Section 35; thence North 89°49'31" West along the north line of the Southeast Quarter of said Section 35 a distance 780.93 feet to the easterly margin of Paradise Road; thence North 01°01'24" East along said easterly margin 688.65 feet, to the intersection of the easterly margin of Paradise Road with the northwesterly margin of Seven Sisters Road; thence northeasterly along said northwesterly margin being a curve concave southeasterly having a radius of 602.96 feet which bears South 63°37'16" East, for an arc distance of 90.86 feet and a central angle of 8°38'03"; thence North 35°30'47" East along said northwesterly margin



Copy

516.25 feet, to the south line of a parcel of land conveyed to Ray O. Wood recorded April 15, 1950 and under Auditor's File No. 121771; thence along said south line North 89°28'07" feet, to the west line of the Northeast Quarter of said Section 35; thence North 01°16'31" East 95.50 feet, to the Southeast corner of the Northwest Quarter of the Northeast Quarter of said Section 35; thence South 89°28'07" East along the south line of the Northwest Quarter of the Northeast Quarter of said Section 35 a distance of 1299.42 feet to the northwesterly margin of Seven Sisters Road and being 10.01 feet westerly of the Southeast Corner of the Northwest Quarter of the Northeast Quarter of said Section 35; thence North 35°00'47" East along said northwesterly margin 18.02 feet, to the east line of the Northwest Quarter of the Northeast Quarter of said Section 35; thence North 01°16'31" East along the east line of the Northwest Quarter of the Northeast Quarter of said Section 35 a distance of 1270.90 feet, to the Northeast Corner of the Northwest Quarter of the Northeast Quarter of said Section 35; thence North 89°06'43" West 1309.35 feet to the North Quarter Corner of said Section 35; thence North 89°18'08" West 654.67 feet, to the Southwest Corner of the East Half of the Southeast Quarter of the Southwest Corner of said Section 26; thence North 01°16'05" 1342.59 feet, to the Northwest Corner of the East Half of the Southeast Quarter of the Southwest Quarter of said Section 26; thence South 89°26'42" East 654.69 feet, to the Northeast Corner of the Southeast Quarter of the Southwest Quarter of said Section 26; thence North 01°16'05" East parallel with the west line of the Southwest Quarter of said Section 26 a distance of 1344.22 feet, to the center of said Section 26; thence North 00°04'46" East parallel with the west line of the Northwest Quarter of said Section 26 a distance of 572.60 feet, to the Government Meander Line; thence North 57°07'16" West along the Government Meander Line 889.72 feet; thence North 26°41'17" West 470.37 feet; thence North 50°37'37" West 451.88 feet, to the east line of the Northwest Quarter of the Northwest Quarter of said Section 26; thence South 00°04'46" West 420.59 feet, to the Southeast Corner of the Northwest Quarter of the Northwest Quarter of said Section 26; thence North 89°46'26" West 1309.06 feet, to the Point of Beginning;

EXCEPT Paradise Road.

Also, except that part lying west of Paradise Road in Section 26 Township 28 North, Range 1 EWM.



# **EXHIBIT B**

319389

DECLARATION OF ROAD MAINTENANCE  
COVENANTS, CONDITIONS AND RESTRICTIONS

RECORDED IN  
VOL. 271 PAGE 600-605  
OF THE PUBLIC RECORDS  
OF THE COUNTY OF  
JEFFERSON

DECEMBER 13 1988  
JEFFERSON COUNTY

THIS DECLARATION OF ROAD MAINTENANCE COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is executed by POPE RESOURCES, A DELAWARE LIMITED PARTNERSHIP ("Pope"), and is intended to expand on the maintenance provisions in that certain prior recording on December 12, 1988 under Auditors file #318666.

**RECITALS:** A. Pope is the owner of the property in Jefferson County, Washington, as more fully described on Exhibit A attached hereto and incorporated by reference (the "Property").

B. In connection with developing the Property into a number of individual lots (the "Lots"), Pope will be establishing a number of easements for private roads (the "Roads") on the Property for ingress and egress to, and access within, the Property.

C. Pope intends to sell some or all of the Lots to third parties. The owners of the Lots shall be referred to herein individually as a "Lot Owner" and collectively as the "Lot Owners."

D. Pope hereby declares that all of the Property shall be held, sold and conveyed subject to the following covenants, conditions and restrictions which deal with maintenance of the Roads. These covenants are intended to and shall run with the land and shall bind Pope and its heirs, successors and assigns and shall inure to the benefit of and bind each subsequent owner of each Lot.

Now, therefore, Pope hereby declares and certifies the following covenants, conditions and restrictions upon the Property as follows:

1. Maintenance Standards for Roads. Maintenance of the Roads shall be limited to the following ("Road Maintenance"): filling of pot holes and regrading of roadways, ditches and gravel as reasonably necessary to enable the Lot Owners to use the Roads for ingress and egress to the Lots. Such maintenance shall be performed by the Contractor (as that term is defined below) once a year at the Contractor's convenience between May 1 and September 1 of each year.

2. Maintenance of Roads Until Pope Has Sold More Than Fifty Percent of the Property. Until such time as Pope sells



more than fifty percent of the total acreage of the Property to third parties; then Pope shall hire a private road maintenance company (the "Contractor") to perform the Road Maintenance. Pope shall be entitled to replace the existing Contractor with a new Contractor as Pope deems reasonable. Once Pope has sold more than fifty percent of the total acreage of the Property to third parties, then Pope shall no longer be responsible for contracting and paying for the Road Maintenance and the responsibility therefor shall be transferred to and shared by the Lot Owners as described more fully in Section 3. Pope shall notify the Lot Owners in writing when Pope ceases to be responsible for contracting and paying for the Road Maintenance.

3. Responsibility for Road Maintenance After Pope Has Sold at Least Fifty Percent of the Property. Once Pope has sold more than fifty percent of the Property to the third parties, then the Lot Owners shall be responsible for obtaining and paying for the Road Maintenance. The Contractor hired by Pope shall continue to be the Contractor until such Contractor is either replaced in accordance with Section 3.1 or becomes incapable of performing the Road Maintenance as set forth in Section 3.2. Every Lot Owner shall be liable for an equal prorate portion of the Contractor's annual charges for providing the Road Maintenance (the "Maintenance Fee"). If any Lot Owner does not pay his portion of the Maintenance Fee when due, then the Contractor shall have the full right and authority to place a lien against that Lot Owner's Lot for nonpayment of such portion of the Maintenance Fee.

3.1 Replacement of Contractor. If a majority of the Lot Owners wish at any time to replace the Contractor with a new Contractor, then they shall have the right to terminate the contract with the existing Contractor and to hire a new Contractor on behalf of all of the Lot Owners on terms consistent with Section 1 hereof. Such Lot Owners promptly shall notify the other Lot Owners of the name of the new Contractor and the estimated Maintenance Fee for the upcoming year.

3.2 Resignation, Death or Unavailability of Contractor. If the then existing Contractor resigns, dies or becomes incapable for any reason of performing the Road Maintenance, and a new Contractor must be hired, then a majority of the Lot Owners shall have 180 days from the date the existing Contractor became incapable of performing the Road Maintenance to hire a new Contractor to perform the Road Maintenance on behalf of all lot owners. If a majority of the Lot Owners are unable to agree on a new Contractor within the 180 day period, then any group of Lot Owners owning at least ten percent of the Lots shall be entitled to hire a new Contractor to perform the Road Maintenance on behalf of all of



the Lot Owners, on terms consistent with Section 1, and shall promptly notify the other Lot Owners of the new Contractor and the estimated Maintenance Fees for the upcoming year. If more than one group of Lot Owners wishes to designate a new Contractor, then the first group of Lot Owners holding at least ten percent of the Lots that accomplishes the following shall be entitled to hire a new Contractor to perform the Road Maintenance: (a) enter into a contract with a new Contractor, and (b) so notify the other Lot Owners of the new Contractor and the estimated Maintenance Fees for the upcoming year.

3.3 Percentage of Lot Owners. As Pope may be developing and selling the Lots in phases, the number of Lot Owners may vary from time to time. The number of Lot Owners required to accomplish the matters set forth in Section 3 shall be based on the appropriate percentage of Lot Owners then in existence.

4. Covenants Running with the Land. These covenants, conditions and restrictions shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof.

5. Enforcement of Covenants. These covenants, conditions and restrictions are for the mutual benefit of Pope and its heirs, successors and assigns, and any Lot Owner is given the right to enforce the covenants, conditions and restrictions by injunction or other lawful procedure and to recover any damages resulting from such violation.

6. Notices. All notices, requests, demands, or other communications required or permitted to be given pursuant to this Declaration shall be given in writing by personal delivery or by first class mail, postage prepaid, addressed to the other Lot Owners at the Lots or their last known address, and signed by Pope or the requisite percentage of Lot Owners, as appropriate. The notices need not all be originals and may be photocopies of the original signed notice.

7. Termination. The Lot Owners' responsibility and liability for the Road Maintenance shall cease when all the Roads are dedicated or conveyed for public use.

8. Attorneys' Fees. In any suit, action or appeal therefrom to enforce or interpret this Declaration, the prevailing party or parties shall be entitled to recover its or



their costs incurred therein, including court costs, costs of litigation and reasonable attorneys' fees.

POPE RESOURCES, ● DELAWARE LIMITED PARTNERSHIP

By: POPE MGP, INC.

By: George Folquet CEO  
George Folquet  
Its President

Exhibit A: Legal Description of Property

STATE OF WASHINGTON )  
                          ) ss.  
COUNTY OF KING      )

On this 16<sup>th</sup> day of JANUARY, 1989, before me, a Notary Public in and for the State of Washington, personally appeared George Folquet, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who signed the instrument; on oath stated that he was authorized to execute this instrument as the President of POPE MGP, INC., the corporation that executed the instrument; acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned; and on oath stated that he was duly elected, qualified, and acting as said officer of the corporation; that said corporation is the partner of POPE RESOURCES, A DELAWARE LIMITED PARTNERSHIP; that said corporation was authorized to execute the said instrument on behalf of said partnership; and that said instrument was the free and voluntary act and deed of said partnership for the uses and purposes therein mentioned.

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

George Folquet  
NOTARY PUBLIC in and for the State of Washington, residing at 1200 1st Ave  
My appointment expires 6-30-91

1909v/880113

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EXHIBIT A

LEGAL DESCRIPTION

COPY

That portion of Sections 26 and 35 in Township 28 North, Range 1 East of the Willamette Meridian in Jefferson County, Washington, and more particularly described as follows:

Commencing at the Northwest Corner of said Section 26; thence South  $00^{\circ}03'58''$  West along the west line of the Northwest Quarter of said Section 26 a distance of 1328.14 feet, to a D.N.R. monument at the Northwest Corner of the Southwest Quarter of the Northwest Quarter of said Section 26 and the Point of Beginning; thence South  $00^{\circ}05'35''$  West along the west line of the Northwest Quarter of said Section 26 a distance of 1328.23 feet, to a D.N.R. monument at the West Quarter Corner of said Section 26; thence South  $01^{\circ}16'05''$  West 2675.39 feet, to a D.N.R. monument at the Southwest Corner of said Section 26; thence South  $01^{\circ}28'55''$  West 2611.92 feet, to a D.N.R. monument at the West Quarter Corner of said Section 35; thence South  $01^{\circ}30'04''$  West along the west line of the Southwest Quarter of said Section 35 a distance of 1306.12 feet to a D.N.R. monument at the Southwest Corner of the Northwest Quarter of the Southwest Quarter of said Section 35; thence South  $89^{\circ}05'23''$  East 2633.19 feet to the Northeast Corner of the South Half of the Southwest Quarter of said Section 35; thence South  $01^{\circ}16'31''$  West along the east line of the South Half of the Southwest Quarter of said Section 35 a distance of 1048.94 feet to the northeasterly margin of State Highway 104; thence southeasterly along said margin on a curve concave southwesterly having a radius of 1827.10 feet which bears South  $12^{\circ}36'12''$  West, for an arc distance of 612.57 feet and a central angle of  $19^{\circ}17'34''$ , to the south line of the Southeast Quarter of said Section 35; thence North  $83^{\circ}56'06''$  East along the south line of the Southeast Quarter of said Section 35 a distance of 178.50 feet; thence North  $25^{\circ}35'00''$  East 85.66 feet; thence North  $37^{\circ}57'00''$  East 92.67 feet; thence North  $35^{\circ}55'00''$  East 264.54 feet; thence North  $40^{\circ}50'30''$  East 383.52" to the Government Meander Line; thence along the Government Meander Line North  $14^{\circ}04'01''$  East 706.23 feet; thence North  $05^{\circ}38'38''$  East 653.05 feet, to the north line of the Southeast Quarter of said Section 35; thence North  $89^{\circ}49'31''$  West along the north line of the Southeast Quarter of said Section 35 a distance 780.93 feet to the easterly margin of Paradise Road; thence North  $01^{\circ}01'24''$  East along said easterly margin 688.65 feet, to the intersection of the easterly margin of Paradise Road with the northwesterly margin of Seven Sisters Road; thence northeasterly along said northwesterly margin being a curve concave southeasterly having a radius of 602.96 feet which bears South  $63^{\circ}37'16''$  East, for an arc distance of 90.86 feet and a central angle of  $8^{\circ}38'03''$ ; thence North  $35^{\circ}00'47''$  East along said northwesterly margin



516.25 feet, to the south line of a parcel of land conveyed to Ray O. Wood recorded April 15, 1950 and under Auditor's File No. 121771; thence along said south line North 89°28'07" feet, to the west line of the Northeast Quarter of said Section 35; thence North 01°16'31" East 95.50 feet, to the Southeast corner of the Northwest Quarter of the Northeast Quarter of said Section 35; thence South 89°28'07" East along the south line of the Northwest Quarter of the Northeast Quarter of said Section 35, a distance of 1299.42 feet to the northwesterly margin of Seven Sisters Road and being 10.01 feet westerly of the Southeast Corner of the Northwest Quarter of the Northeast Quarter of said Section 35; thence North 35°00'47" East along said northwesterly margin 18.02 feet, to the east line of the Northwest Quarter of the Northeast Quarter of said Section 35; thence North 01°16'31" East along the east line of the Northwest Quarter of the Northeast Quarter of said Section 35 a distance of 1270.90 feet, to the Northeast Corner of the Northwest Quarter of the Northeast Quarter of said Section 35; thence North 89°06'43" West 1309.35 feet to the North Quarter Corner of said Section 35; thence North 89°10'08" West 654.67 feet, to the Southwest Corner of the East Half of the Southeast Quarter of the Southwest Corner of said Section 26; thence North 01°16'05" 1342.59 feet, to the Northwest Corner of the East Half of the Southeast Quarter of the Southwest Quarter of said Section 26; thence South 89°26'42" East 654.69 feet, to the Northeast Corner of the Southeast Quarter of the Southwest Quarter of said Section 26; thence North 01°16'05" East parallel with the west line of the Southwest Quarter of said Section 26 a distance of 1344.22 feet, to the center of said Section 26; thence North 00°04'46" East parallel with the west line of the Northwest Quarter of said Section 26 a distance of 572.60 feet, to the Government Meander Line; thence North 57°07'16" West along the Government Meander Line 889.72 feet; thence North 26°41'17" West 470.37 feet; thence North 50°37'37" West 451.86 feet, to the east line of the Northwest Quarter of the Northwest Quarter of said Section 26; thence South 00°04'46" West 420.59 feet, to the Southeast Corner of the Northwest Quarter of the Northwest Quarter of said Section 26; thence North 89°46'26" West 1309.06 feet, to the Point of Beginning;

EXCEPT Paradise Road.

Also, except that part lying east of Paradise Road in Section 26 & 35 Township 28 North, Range 1 EWM.