

WHEN RECORDED RETURN TO:

PACIFICORP, REAL ESTATE MGMT.
825 NE MULTNOMAH STR. #1780
PORTLAND, OR 97232

DOCUMENT TITLE(S)

FLOOD AND FLOWAGE EASEMENT

REFERENCE NUMBER(S) of Documents assigned or released:

☐ Additional numbers on page _____ of document.

GRANTOR(S): POPE RESOURCES, A DELAWARE LIMITED
PARTNERSHIP

☐ Additional names on page _____ of document.

GRANTEE(S): PACIFICORP, AN OREGON CORPORATION
REAL ESTATE EXCISE TAX

☐ Additional names on page _____ of document.

LEGAL DESCRIPTION (Abbreviated: i.e. Lot, Block, Plat or Section, Township, Range, Quarter):

NOT OF CONT BK 208/PG 130

☒ Complete legal on page 5 of document.

TAX PARCEL NUMBER(S): 06 06 000002 0000

☐ Additional parcel numbers on page _____ of document.

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recorded processing requirements may cover up or otherwise obscure some part of the text of the original document.

Company Name: PACIFICORP

Signature/Title: Jordane J. Taylor Property Agent

When Recorded, Return to:
PacifiCorp, Real Estate Mgmt.
825 NE Multnomah St. Suite 1700
Portland, OR 97232

FLOOD AND FLOWAGE EASEMENT

Abbreviated Legal Descriptions: NOT OF CONT BK 208/PG 130

THIS FLOOD AND FLOWAGE EASEMENT ("**Easement**"), including all exhibits attached hereto, is made by and between Pope Resources, a Delaware limited partnership ("**Grantor**"), and PacifiCorp, an Oregon corporation ("**Grantee**"), each a Party and together the Parties.

RECITALS

A. Whereas Grantee owns and operates Federal Energy Regulatory Commission ("**FERC**") Hydroelectric Project Number 2111 known as the Swift No.1 Project (the "**Project**"), which includes a dam and reservoir commonly known as Swift Reservoir, (the "**Reservoir**").

B. Whereas Grantor owns certain real property commonly known as Skamania County, Washington Tax Lot 06060000020000 more particularly described in that certain Statutory Warranty Deed (2011 Second Revised Exempt Division of Swift South) recorded in the records of Skamania County, Washington on May 5, 2011, as AFN # 2011178186 and further described in **Exhibit A** (the "**Property**"), which Property is adjacent to the Reservoir.

C. Whereas the waters of the Reservoir may or do overflow some or all of the Property and Grantee wishes to obtain from Grantor an easement confirming its rights to cause such waters to overflow such lands.

D. Whereas Grantor is willing to grant to Grantee a non-exclusive perpetual easement in accordance with and subject to the terms and conditions set forth in this Easement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and received, the Parties enter into this Easement under the following terms and conditions:

1. **EASEMENT AREAS:** The portions of the Property lying equal to and below elevation 1,010-foot (NGVD 29 datum) as more approximately shown in **Exhibit B-1 and Exhibit B-2** (the "**Easement Areas**").

2. **PERMITTED USE:** Grantor hereby grants to Grantee, its successors and assigns, a perpetual flood, flowage and drainage easement for, in, on, over, under, across, and through the Easement Areas. Grantee may use such easement for all flowage and drainage purposes (whether intentional, unintentional, man-made or naturally occurring), and such purposes may include, without limitation: (i) the temporary or permanent inundation of the Easement Areas, (ii) the fluctuation of the waters of the Reservoir in, on, over, under, across and through the Easement Areas, and (iii) the temporary or permanent withdrawal of some or all of the waters of the Reservoir from the Easement Areas.

Grantor also hereby grants to Grantee the right of ingress and egress over and across the Easement Areas to inspect the same. Grantor shall not unreasonably refuse, condition, or limit such ingress and egress.

This Easement is perpetual and shall run with the land.

3. **RESERVATIONS BY GRANTOR:** Grantor, its heirs and assigns, reserves the right to occupy and use the Property, including the Easement Areas, for any purpose not inconsistent with the rights granted to Grantee under this Easement.

4. **RESTRICTIONS ON GRANTOR USE OF EASEMENT AREAS:** Grantor will not use the Easement Areas for any purpose inconsistent with Grantee's rights under this Easement.

5. **RELEASE:** Grantor, its successors, assigns, heirs, executors, and administrators, release Grantee, its directors, officers, representatives, employees, agents, successors assigns, heirs, executors, and administrators from all past, present or future claims or liability for injury to persons, decrease in land value to the Property or Grantor's adjacent lands, damage to lands or personal property, or damage to vegetation or improvements in the Easement Areas arising from any action of Grantee authorized by this Easement.

6. **TIMBER:** If the Easement Areas are inundated or overflowed by the waters of the Reservoir, Grantee shall pay Grantor the fair market value of any non-merchantable or merchantable timber that is damaged by such inundation or overflow. Any such damaged timber shall remain the property of the Grantor, and Grantee shall have no duty or right to salvage or otherwise dispose of or remove such timber.

7. **LIENS OR ENCUMBRANCES:** Grantor represents and warrants that, to Grantor's knowledge, the Easement Areas are free from liens or encumbrances, except those of record as of the date of this instrument.

8. **COMPLIANCE WITH LAWS:** In exercising their respective rights and complying with their respective duties under this Easement, each Party shall comply with all applicable federal, state, and local laws, including all environmental laws and regulations during the term of this Easement.

9. **CHOICE OF LAW:** The internal laws of the State of Washington shall govern this Easement (without regard to Washington's conflict-of-laws provisions).

10. **WAIVER:** No waiver of any term of this Easement constitutes a waiver of any other provision, whether similar or dissimilar. No waiver of any term constitutes a continuing waiver of that term. No waiver is binding unless signed in writing by the waiving Party.

11. **BINDING EFFECT:** This Easement shall run with the land and shall bind and inure to the benefit of the Parties and their successors and assigns.

12. **HEADINGS:** The headings in this Easement are for convenience of reference only and do not constitute a part of it. The headings do not affect its interpretation.

13. **ENTIRE AGREEMENT; MODIFICATIONS:** This Easement, including exhibits, represents the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, representations, and undertakings. No supplement, modification, or amendment of this Easement will be binding unless it is in writing and signed by the Parties.

14. **NO THIRD-PARTY BENEFICIARIES:** This Easement is not intended to create any rights in any third-party.

15. **LEGAL FEES:** In the event any court action shall be instituted by a Party to enforce any of the terms and provisions contained herein, the prevailing Party in such action shall be entitled to reasonable attorneys' fees, costs and expenses from the other Party. A Party is not a prevailing Party if it refuses a settlement offer from the other Party and then recovers through legal action an award less than or equal to the settlement offer.

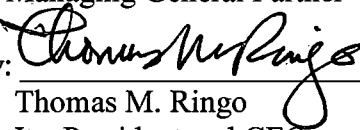
16. **AUTHORITY:** Each individual executing this Easement does thereby represent and warrant to each other that he or she has been duly authorized to sign this Easement in the capacity and for the entities set forth where he or she signs.

17. **EXISTING ENCUMBRANCES:** This Easement is subject to all existing rights of way and encumbrances of record, or in equity or at law.

EXECUTED in duplicate as of the dates set forth below.

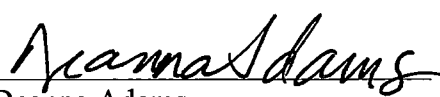
GRANTOR:

POPE RESOURCES,
A Delaware limited partnership
By: Pope MGP, Inc., a Delaware corporation
Its Managing General Partner

By: 
Thomas M. Ringo
Its: President and CEO

GRANTEE:

PACIFICORP, an Oregon corporation

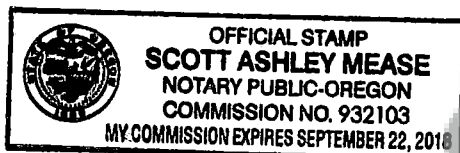

Deanna Adams
Director, Real Estate Management

ACKNOWLEDGEMENT

STATE OF OREGON)
) ss.
 COUNTY OF MULTNOMAH)

On this day personally appeared before me Deanna Adams, known to me to be the Director of Real Estate Management of PacifiCorp, the corporation which executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the use and purposes therein mentioned.

Given under my hand and official seal this 4TH day of DECEMBER, 2017.



[Signature]
 NOTARY PUBLIC in and for the State of Oregon
 My Commission Expires 22 SEPTEMBER MMXVIII

STATE OF WASHINGTON)
) ss.
 COUNTY OF KITSAP)

On this day personally appeared before me Thomas M. Ringo, known to me to be the President and CEO of Pope MGP, Inc., Managing General Partner of Pope Resources, a Delaware limited partnership, the partnership which executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said partnership for the use and purposes therein mentioned.

Given under my hand and official seal this 15th day of December, 2017.



[Signature]
 Print Name: Michelle S. Verlander
 NOTARY PUBLIC in and for the State of Washington
 Residing at Bremerton
 My Commission Expires 6-9-20

EXHIBIT A
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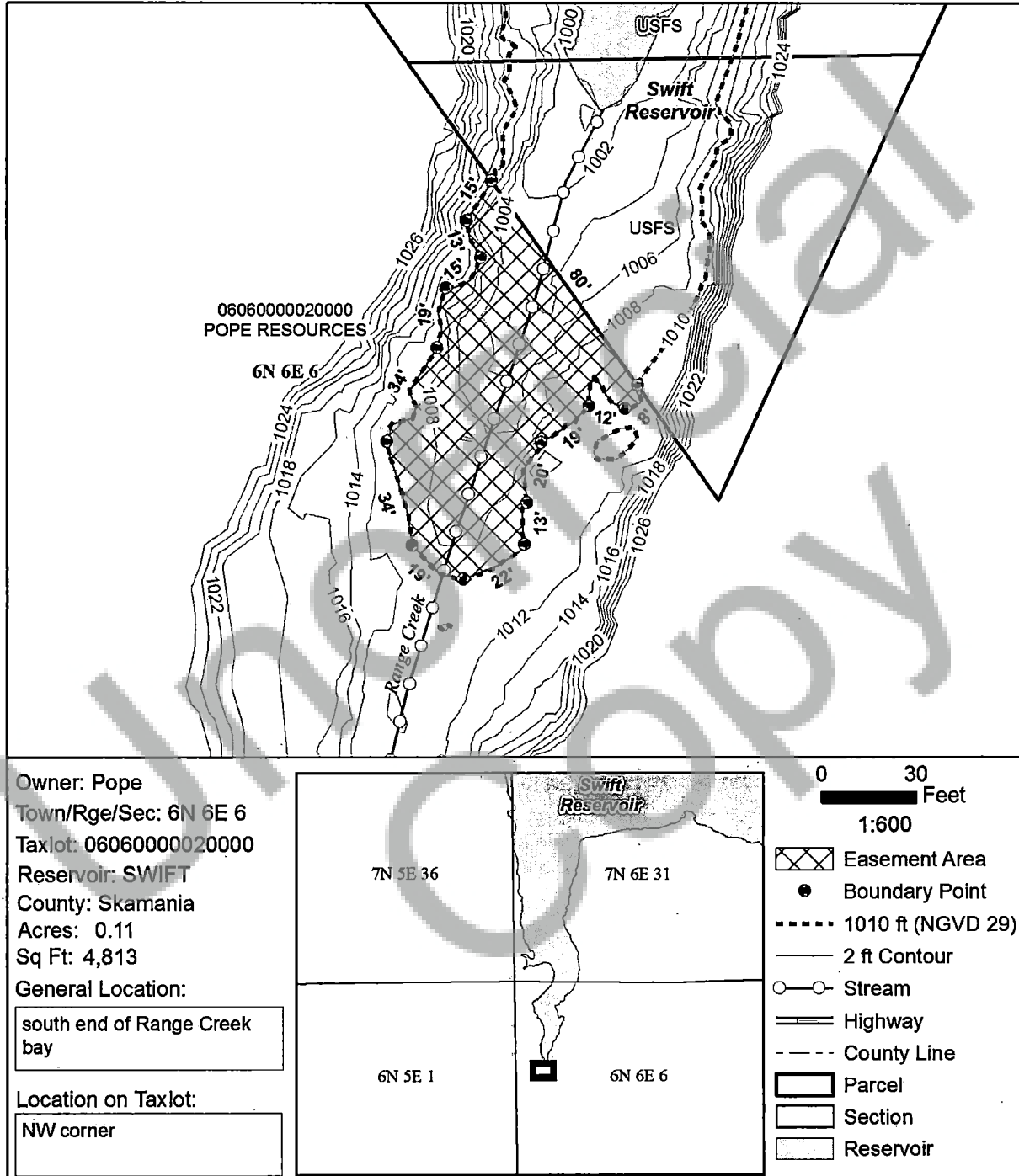
Portions of Tax Lot #06060000020000 as described in Statutory Warranty Deed (2011 Second Revised Exempt Division of Swift South) recorded in the records of Skamania County, Washington on May 5, 2011, as AFN # 2011178186 as follows:

BLOCK "F"

Government Lots 1, 2, 3, 4, 5, 8, 10 and 12, the South half of the Northeast quarter, the Southeast quarter of the Northwest quarter, the East half of the Southwest quarter and the Southeast quarter of Section 6, Township 6 North, Range 6 East, Willamette Meridian, Skamania County, Washington.

EXHIBIT B-1

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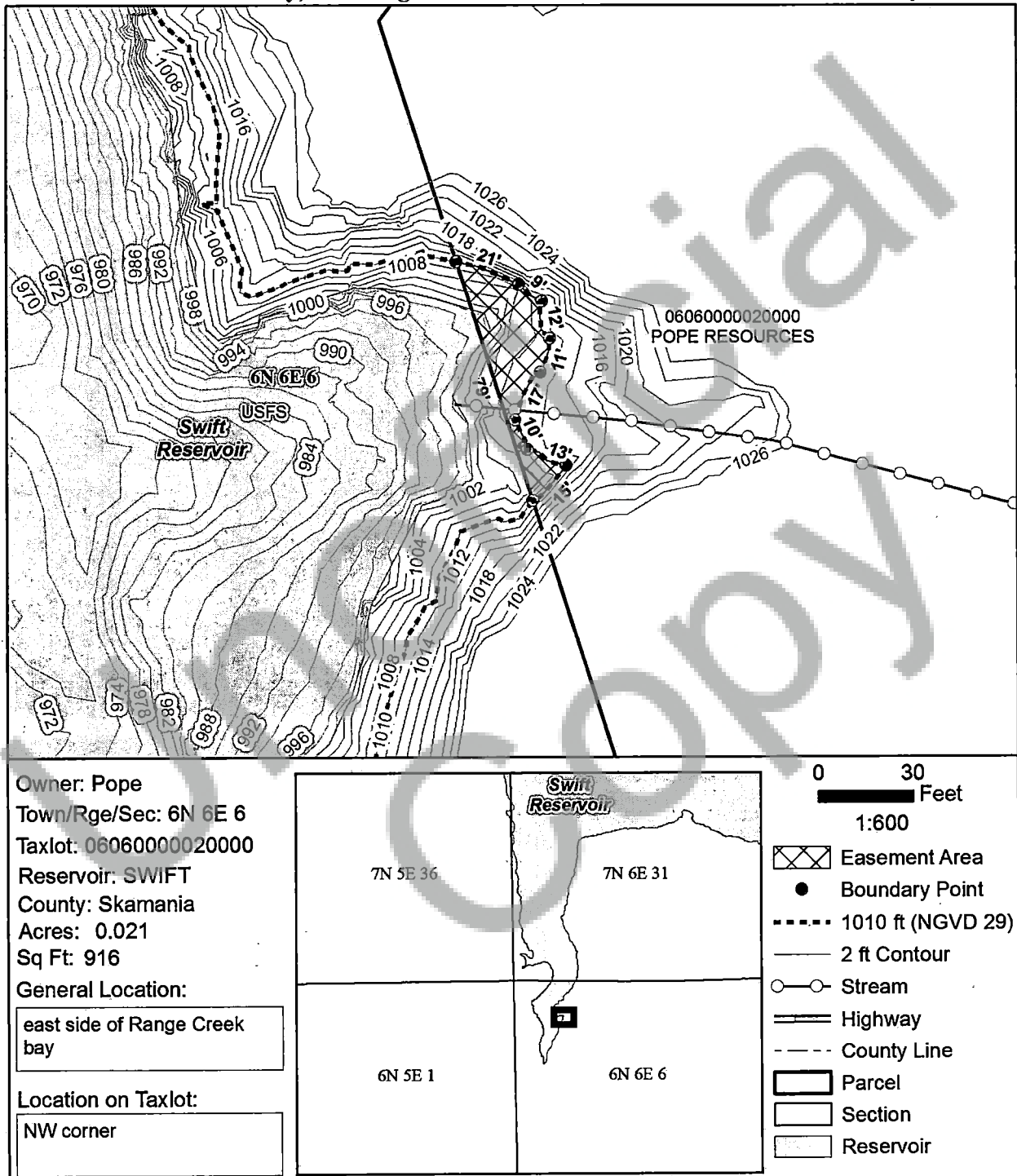
**Approximate Location of the Easement Areas on the Property
Skamania County, Washington 06060000020000-Range Creek**

The Easement Areas shown in Exhibits B-1 and B-2 have not been surveyed and all distances shown are approximate. In the event of any errors or ambiguity in the description, or misunderstanding with respect to the location or extent of the property, PacifiCorp reserves the right to resolve the dispute or ambiguity and to designate the configuration of the area in dispute.

EXHIBIT B-2

Page 1 of 1

Approximate Location of the Easement Areas on the Property
Skamania County, Washington Tax Lot 06060000020000-East Side of Bay



The Easement Areas shown in Exhibits B-1 and B-2 have not been surveyed and all distances shown are approximate.