

WHEN RECORDED RETURN TO:

JORDAN RAMIS PC

TWO CENTERPOINTE DR STE 600

LAKE OSWEGO OR 97035

(53850-75968--MEE)

DOCUMENT TITLE(S)

WATER SUPPLY AND SANITARY EASEMENT AGREEMENT

SKAMANIA COUNTY
REAL ESTATE EXCISE TAX

REFERENCE NUMBER(S) of Documents assigned or released:

NOV 21 2018

☒ Additional numbers on page 1 of document.

PAID

N/A

GRANTOR(S):

LYNDA J. OLSON-LAVINE, aka LYNDA J. OLSON, and GARY C. LAVINE

☐ Additional names on page of document.


GRANTEE(S):

EDGEWATER WATER ASSOCIATION

☐ Additional names on page of document.

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

☒ Complete legal on page 1 of document.

TAX PARCEL NUMBER(S): 04072334060000; 04072334061200; 04072334061100; 04072334061000;
04072334060900; 04072334060900; 04072334060800; 04072334060700; 04072334060600; 04072334060500;
04072334060400; 04072334060300; 04072334060100; 04072334060200; and 04072334061300. 

☐ 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.

AFTER RECORDING RETURN TO:

Jordan Ramis PC
Two Centerpointe Dr Ste 600
Lake Oswego OR 97035
(53850-75968 – MEE)

This space is reserved for recorder's use.

Legal Description (abbreviated):

Lots 1, Edgewater Properties, Lot 2, Edgewater Properties, Lot 3, Edgewater Properties, Lot 4, Edgewater Properties, Lot 7, Edgewater Properties; Lot 8, Edgewater Properties; Lot 9, Edgewater Properties, Lot 10, Edgewater Properties; Lot 11, Edgewater Properties, Lot 12, Edgewater Properties; Lot 13, Edgewater Properties; Lot 14, Edgewater Properties; Lot 15, Edgewater Properties.

All according to the official plat thereof recorded in Book A of Plats, Page 119, Records of Skamania County, WA.

Well Parcel as shown and defined in BLA Book 1, Page 5, Skamania County, Washington.

Assessor's Tax Parcel ID #: 04072334060000; 04072334061200; 04072334061100;
04072334061000; 04072334060900; 04072334060800;
04072334060700; 04072334060600; 04072334060500;
04072334060400; 04072334060300; 04072334060100;
04072334060200; and 04072334061300.

**WATER SUPPLY AND SANITARY
EASEMENT AGREEMENT**

This Water Supply and Sanitary Easement Agreement ("Agreement") is made this 14th day of November, 2018 ("Effective Date") by and between Lynda J. Olson-LaVine, aka Lynda J. Olson, and Gary C. LaVine ("LaVine") and Edgewater Water Association, a Washington nonprofit corporation ("Edgewater"), which parties are collectively referred to herein as the "parties."

RECITALS

A. LaVine is the owner of Lot 1, Edgewater Properties, Lot 2, Edgewater Properties, Lot 3, Edgewater Properties, and Lot 4, Edgewater Properties, as initially described according to that official plat recorded on March 17, 1964 in Book A of Plats, Page 119, records of Skamania County, WA (the “Edgewater Plat”), as adjusted by that boundary line adjustment described in Recital C below (collectively, the “LaVine Lots”).

B. A copy of the Edgewater Plat reflecting the initial location of the LaVine Lots and the existing location of additional Lot 7, Edgewater Properties, Lot 8, Edgewater Properties, Lot 9, Edgewater Properties, Lot 10, Edgewater Properties, Lot 11, Edgewater Properties, Lot 12, Edgewater Properties, Lot 13, Edgewater Properties, Lot 14, Edgewater Properties, and Lot 15, Edgewater Properties (said Lots 7 through 15 are collectively referred to herein as the “Edgewater Lots”) is attached hereto and incorporated herein as **Exhibit A**.

C. On January 29, 1998, that BOUNDARY LINE ADJUSTMENT LOTS 1, 2, AND 3 PLAT OF EDGEWATER PROPERTIES, recorded in Book 1 of Boundary Line Adjustments, Page 5, records of Skamania County, State of Washington (the “Well Parcel BLA”), adjusted the boundaries of LaVine Lots 1, 2, and 3 and created an additional parcel (the “Well Parcel”) and an accompanying 100-foot radius well easement on and across LaVine Lots 1, 2, and 3 specifically dedicated to the location and operation of the well previously completed in 1989 on the Well Parcel to provide water service to the LaVine Lots and the Edgewater Lots (the “Edgewater Well”).

D. On October 6, 2005, the Washington Department of Ecology (“DOE”) issued a letter to LaVine confirming that, as a matter of law, the Edgewater Well could be used to provide groundwater for domestic use to a specified number of residential service connections, provided such use in the aggregate did not exceed a total of 5,000 gallons per day, a copy of which letter is attached as **Exhibit B**.

E. On August 15, 2017, the Washington Department of Health Office of Drinking Water (“DOH”) issued a letter to LaVine confirming that, as a matter of law, the Edgewater Well only possessed adequate capacity to serve nine (9) residential service connections, a copy of which letter is attached as **Exhibit C**. As a result of DOH’s determination, the Edgewater Well and accompanying facilities (the “Edgewater Water System”) can and shall only serve the Edgewater Lots.

F. On December 7, 2017, LaVine completed a new well on Lot 1 of the LaVine Lots with the intent to use such well for the exclusive purpose of providing domestic water to the LaVine Lots (the “LaVine Well”).

G. On November 19, 2018, LaVine executed a bargain and sale deed conveying to Edgewater all of LaVine’s right, title and interest in and to that portion of groundwater, groundwater permit application G2-29428, and any existing or future groundwater right permit and groundwater right authorizing the appropriation and

application to beneficial use of water on the Edgewater Lots, together with the Edgewater Well and all related equipment and facilities used to appropriate and convey such water and water interests from the Edgewater Well throughout the Edgewater Water System for delivery to the Edgewater Lots.

H. On November 14, 2018, LaVine and the owners of the Edgewater Lots executed a "Termination of Amended and Restated Declaration and Agreement of Restrictive Covenants and Assessments Re: Edgewater Water System Association" which terminated that "Amended and Restated Declaration and Agreement of Restrictive Covenants and Assessments Re: Edgewater Water System Association" recorded August 28, 2017, as Document No. 2017001800, and the original "Declaration and Agreement of Restrictive Covenants and Assessments Re: Edgewater Water System Association and Notice to Future Property Owners" recorded July 18, 2012, in Book 167 at Page 314, both in the records of Skamania County, Oregon (the "Declaration").

I. On November 14, 2018, LaVine executed a statutory warranty deed conveying to Edgewater all of LaVine's right, title and interest in and to the Well Parcel and all appurtenances thereto.

J. The parties desire to agree to terms and conditions to be mutually assured that the groundwater withdrawal limitations dictated by DOE and DOH are adhered to in the operation of the LaVine Well and related equipment and distribution facilities (the "LaVine Water System") and the Edgewater Water System.

K. The parties additionally wish to acknowledge the binding effect of the separate sanitary easements created for the benefit of the Edgewater Well and the LaVine Well and confirm their respective obligations to enforce such easements to protect the wellheads and water quality of such wells.

AGREEMENT

NOW THEREFORE, for and in consideration of the parties' performance of the covenants, agreements, and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually agreed by and between the parties as follows:

1. **Incorporation of Recitals.** The foregoing Recitals are true and correct and are hereby incorporated into this Agreement by this reference.
2. **Definitions.**
 - 1.1 "Agreement" means as defined above in the preamble.
 - 1.2 "DOE" means the Washington Department of Ecology as defined above in Recital D.

1.3 “DOH” means the Washington Department of Health Office of Drinking Water as defined above in Recital E.

1.4 “Edgewater Lots” means as defined above in Recital B.

1.5 “Edgewater Plat” means as defined above in Recital A and additionally described as containing the LaVine Lots and the Edgewater Lots in Recitals A and B.

1.6 “Edgewater Water System” means the Edgewater Well, and additional facilities necessary for the appropriation, collection, conveyance and distribution of groundwater for the exclusive benefit of the Edgewater Properties. The approximate location of the Edgewater Well and additional facilities comprising the Edgewater Water System is depicted on the drawing attached hereto as **Exhibits D-1 and D-2**.

1.7 “Edgewater Well” means that well as so defined above in Recital C, which was completed on July 1, 1989 as confirmed in the records of DOE under that Water Well Report filed in support of Water Right Permit Application No. G2-29428.

1.8 “GPD” means gallons per day.

1.9 “LaVine Lots” means as defined above in Recital A.

1.10 “LaVine Water System” means the water supply system including, but not limited, to the LaVine Well, as constructed for the benefit of the LaVine Lots. Such system has also been referred to before the DOH as the “G & L Water System.”

1.11 “LaVine Well” means that well described in Recital F as completed on Lot 1 of the LaVine Lots and which is located approximately 50 feet to the west-southwest of the Edgewater Well, and is identified in a Water Well Report of record with DOE as possessing Well ID Tag No. BIN873. The approximate location of the LaVine Well is depicted on the drawing attached hereto as **Exhibits E-1 and E-2**.

1.12 “Well Parcel” means that parcel identified as the “Well Parcel” and legally described on the Well Parcel BLA.

1.13 “Well Parcel BLA” is that BOUNDARY LINE ADJUSTMENT LOTS 1, 2, AND 3 PLAT OF EDGEWATER PROPERTIES, dated November 10, 1997, and recorded on January 29, 1998 in Book 1 of Boundary Line Adjustments, Page 5, Records of Skamania County, State of Washington, a copy of which is attached hereto as **Exhibit F**.

2. Water Systems Operation and Maintenance.

2.1 **Third Party Contractor.** The parties agree that they each shall contract with a licensed third party contractor that possesses all qualifications required to operate

and maintain each party's water system in a manner consistent with all applicable laws and the parties' respective obligations set forth in this Agreement.

2.2 Costs.

2.2.1 Edgewater Water System. All cost and/or fees related to the operation, maintenance, repair, and replacement of any and all components of the Edgewater Water System shall be the sole responsibility of Edgewater.

2.2.2 LaVine Water System. All costs and/or fees related to the operation, maintenance, repair, and replacement of any and all components of any water supply system including, but not limited to, the LaVine Well, as may be constructed for the benefit of the LaVine Lots shall be the sole responsibility of LaVine.

2.3 Service Connections.

2.3.1 Edgewater Water System. Service connections shall be limited to the delivery of water for the exclusive benefit of the Edgewater Lots.

2.3.2 LaVine Water System. Service connections shall be limited to the delivery of water for the exclusive benefit of the LaVine Lots.

2.4 Use Limitations.

2.4.1 Edgewater Water System. Subject to applicable state law, Edgewater shall not permit on any given day owners of the Edgewater Lots to (a) withdraw from the Edgewater Well and use in the aggregate more than 3,456 GPD for domestic use, and (b) irrigate in the aggregate more than 0.35 acres of lawn or non-commercial garden. Edgewater shall enforce such limitations through the installation, operation and maintenance of water meters at the water service connection to each of the Edgewater Lots, visual inspections, and by taking such other measures to the extent permitted by law. All future appropriation and use of groundwater by and through operation of the Edgewater Water System shall comply with additional requirements of any applicable federal and state laws.

2.4.2 LaVine Water System. Subject to applicable state law, LaVine shall not permit in any given day the owners of the LaVine Lots to (a) withdraw from the LaVine Well and use in the aggregate more than 1,536 GPD for domestic use, and (b) irrigate in the aggregate more than 0.15 acres of lawn or non-commercial garden. LaVine shall enforce such limitations through the installation, operation and maintenance of water meters at the water service connection to each of the LaVine Lots, visual inspections, and by taking such other measures to the extent permitted by law. All future appropriation and use of groundwater by and through operation of the LaVine Water System shall comply with additional requirements of any applicable federal and state laws.

2.5 Prohibited Practices.

2.5.1 Edgewater Water System. Edgewater shall not permit, or shall immediately take such actions as reasonably necessary to further prevent, any owner of an Edgewater Lot or any other person from constructing, maintaining, or permitting another to construct or maintain, within 100 feet or such greater distance as may be required by applicable law, of the Edgewater Well, so long as the same is operated to furnish water for public consumption, any of the following: septic tanks and/or drain fields, sewer lines, underground storage tanks, county or state roads, railroad tracks, vehicles, barns, feeding stations, grazing animals, enclosures for maintaining fowl or animal manure liquid, dry chemical storage, herbicides, insecticides, hazardous waste, or garbage of any kind. Edgewater will further not cross connect any portion or segment of the Edgewater Water System with any other water source without prior written approval of the Skamania County Health Department and or other appropriate governmental agency.

2.5.2 LaVine Water System. LaVine shall not permit, or shall immediately take such actions as reasonably necessary to further prevent any owner of a LaVine Lot or any other person from constructing, maintaining, or permitting another to construct or maintain, within 100 feet or such greater distance as may be required by applicable law, of the LaVine Well, so long as the same is operated to furnish water for public consumption, any of the following: septic tanks and/or drain fields, sewer lines, underground storage tanks, county or state roads, railroad tracks, vehicles, barns, feeding stations, grazing animals, enclosures for maintaining fowl or animal manure liquid, dry chemical storage, herbicides, insecticides, hazardous waste or garbage of any kind. LaVine will further not cross connect any portion or segment of the LaVine Water System with any other water source without prior written approval of the Skamania County Health Department and or other appropriate governmental agency.

3. Sanitary Easements

3.1 Edgewater Well. LaVine acknowledges the existence of the permanent 100-foot radius sanitary easement previously established of record around the Edgewater Well under the Well Parcel BLA and agrees to not engage in any activities or conduct of the nature described under Section 2.5.1 of this Agreement that would compel Edgewater to take such action as also described in Section 2.5.1 to protect the Edgewater Well and the groundwater to be withdrawn therefrom.

3.2 LaVine Well. Once established of public record, Edgewater shall acknowledge the existence of a permanent 100-foot radius sanitary easement established around the LaVine Well and agrees to not engage in any activities or conduct of the nature described under Section 2.5.2 of this Agreement that would compel LaVine to take such action as also described in Section 2.5.2 to protect the LaVine Well and the groundwater to be withdrawn therefrom.

4. **Term.** The term of this Agreement shall be perpetual from the Effective Date unless earlier terminated pursuant to Section 5 of this Agreement.

5. **Termination.** This Agreement shall be perpetual unless terminated in writing by the parties.

6. **Default.** The following will be events of default by either party:

6.1 **Failure to Comply with Terms or Conditions.** Failure to comply with any term or condition or fulfill any obligation of this Agreement.

6.2 **Improper/Unauthorized Use of Water.** Failure of a party to use water in a manner other than as authorized under this Agreement.

7. **Remedies.** In the event of default by one party, the other shall have the right to seek declaratory judgment or other judicial relief including, but not limited to, the right to damages as may be allowed under applicable law.

8. **Nonwaiver.** Waiver by one party of any breach of any term of this Agreement by the other party shall not be deemed to be a waiver of such term in the future.

9. **Amendment.** This Agreement may only be amended by written agreement among the parties.

10. **Time of Essence.** Time is of the essence regarding performance of each of the obligations under this Agreement.

11. **Survival.** Any provision of this Agreement that expressly or by its nature provides for rights, obligations or remedies that extend beyond the termination of this Agreement, such provision will survive and continue in full force and effect after this Agreement is terminated.

12. **Severability.** If any term, provision, or condition contained in this Agreement shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of such term, provision, or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

13. **Entire Agreement.** This Agreement contains the entire and integrated agreement of the parties with respect to any matter mentioned herein. This Agreement supersedes all prior communications, representations, and agreements, oral or written between the parties with respect to any matter mentioned herein.

14. Choice of Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Should any legal action be required, venue shall be exclusively in the Superior Court for Skamania County, Washington.

15. Attorneys' Fees. If either party brings an action to enforce the terms of this Agreement or to declare rights under this Agreement, the prevailing party or parties at any such action, on trial or appeal, shall be entitled to its reasonable attorneys' fees to be paid by the losing party or parties as fixed by the court.

16. Authority. Each person executing this Agreement represents and warrants that he or she has authority to execute this Agreement.

17. Each Party Aware of Terms and Conditions. Each party agrees, by executing this Agreement, that prior to execution each party had adequate opportunity to review this Agreement and consult with any agent or advisor that the party deems necessary, and is fully aware of all the terms and conditions contained herein.

18. Construction. Given that the parties had the opportunity to participate in the preparation of this Agreement, the rule of construction that contracts shall be construed against the drafter, shall not apply to the interpretation of this Agreement.

19. Binding Effect and Recording. The rights, benefits and obligations hereunder shall inure to the benefit of and be binding on the parties, their representatives, successors and assigns. This Agreement shall be submitted for recording in the real property records of Skamania County and shall run with all lands described in the Edgewater Plat.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

[Signatures and Acknowledgments on following pages]

Lynda J. Olson-LaVine
 Lynda J. Olson-LaVine,
 aka Lynda J. Olson

Gary C. LaVine
 Gary C. LaVine

Oregon
 STATE OF ~~WASHINGTON~~
) ss.
 County of Wasco)

This instrument was acknowledged before me on this 19 day of November, 2018, by Lynda J. Olson-LaVine, aka Lynda J. Olson, to me known to be the individual described herein and who executed the foregoing instrument and acknowledged that she signed the same as her own free and voluntary act and deed, for the uses and purposes therein mentioned.



Francene Wilhelm
 NOTARY PUBLIC FOR WASHINGTON
 My Appointment Expires: 12-8-2021

Oregon
 STATE OF ~~WASHINGTON~~
) ss.
 County of Wasco)

This instrument was acknowledged before me on this 19 day of November, 2018, by Gary C. LaVine, to me known to be the individual described herein and who executed the foregoing instrument and acknowledged that he signed the same as his own free and voluntary act and deed, for the uses and purposes therein mentioned.



Francene Wilhelm
 NOTARY PUBLIC FOR WASHINGTON
 My Appointment Expires: 12-8-2021

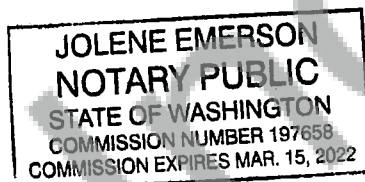
EDGEWATER WATER ASSOCIATION, a
Washington nonprofit corporation

By: Carl H. Waters
Name: Carl H. Waters
Title: President

STATE OF WASHINGTON)
County of Skamania) ss.

I certify that I know or have satisfactory evidence that CARL H. Waters
is the person who appeared before me, and said person acknowledged that he/she signed
this instrument, on oath stated that he/she was authorized to execute the instrument and
acknowledged it as the president (title) of Edgewater Water Association, a
Washington nonprofit corporation, to be the free and voluntary act of such party for the
uses and purposes mentioned in the instrument.

Dated: 11-14, 2018



[Signature]
NOTARY PUBLIC FOR WASHINGTON
My Appointment Expires: 3-15-22

EXHIBIT B



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

October 6, 2005

Bruce Scherling
Skamania County Health Department
PO Box 162
Stevenson, WA 98648

Dear Mr. Scherling:

Re: Exempt Well for the Edgewater Water System

Thank you for discussing the option of approving more connections at the Edgewater development for Gary and Lynda Lavine. As you are aware, the Lavines are actively pursuing a decision on their Water Right Application G2-29428 through Ecology's Cost Reimbursement option. Currently, 6 connections are allowed although their desire is to eventually hook up 13 connections to the water system.

As we discussed in our meeting with the Lavines on September 28, 2005, it appears that there may be room for additional connections for the Edgewater development under the 5,000 gallon per day exemption.

Based on meter records taken between June 18 and July 9, 2005 at the Edgewater development, there appears to be room for up to 4 additional connections for a total of 10 connections under the 5,000 gallons per day exemption (RCW 90.44.050). The Department of Ecology assumes and expects that the proposed 4 additional connections will be similar in lot size and irrigation requirements as the existing 6 lots and that the water demand for all 10 connections will not exceed 5,000 gallons per day.

Please contact me at (360) 407-6167 if you have further questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Dexel".

Mike Dexel
Water Resources Program

MD:th

Cc: Lynda & Gary Lavine

Page 1 - EXHIBIT B

EXHIBIT C



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SOUTHWEST DRINKING WATER REGIONAL OPERATIONS
PO Box 47823, Olympia, Washington 98504-7823
TDD Relay 1-800-833-6388

August 15, 2017

Lynda Lavine
8233 Highway 14
Lyle, Washington 98635

Dear Ms. Lavine:

Subject: Edgewater Water Systems Water System, ID #070708, Skamania County; Group B
Expansion, ODW Project #17-0801

The Group B workbook and system record drawings for this project received by the Office of Drinking Water (ODW) August 10, 2017, along with updated information e-mailed on August 15, 2017, have been reviewed and in accordance with the provisions of WAC 246-291, are **APPROVED**. The approval issued herein is based on conformance with current standards outlined in WAC 246-291, revised December 2012. Future changes in the rules may be more stringent and require facility modification or corrective action.

This project has been reviewed as a Group B water system in accordance with WAC 246-291. The analysis presented in this document demonstrates that the water system has adequate capacity to serve a total of nine (9) residential service connections.

Our approval of your water system design does not confer or guarantee any right to withdraw or divert groundwater. Contact your local planning department or the Washington State Department of Ecology for more information about your legal rights to use groundwater. The approved number of service connections is based on the applicant's representation of available water quantity and the number of service connections may be reduced commensurate with the applicant's actual legal right to withdraw groundwater.

We acknowledge that consideration of a final environmental document related to the subject plans and specifications or water system plan was used in the review process leading to this approval.

Regulations establishing a schedule of fees for review of planning, engineering and construction documents were adopted March 18, 2012 (WAC 246-290-990). An itemized bill for \$624 is enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Kay Rottell".

Kay Rottell, P.E.
Office of Drinking Water, Regional Engineer

Enclosures

cc: Dustin Conroy, Pioneer Surveying and Engineering, Inc.
Skamania County Health Department

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EXHIBIT D-1

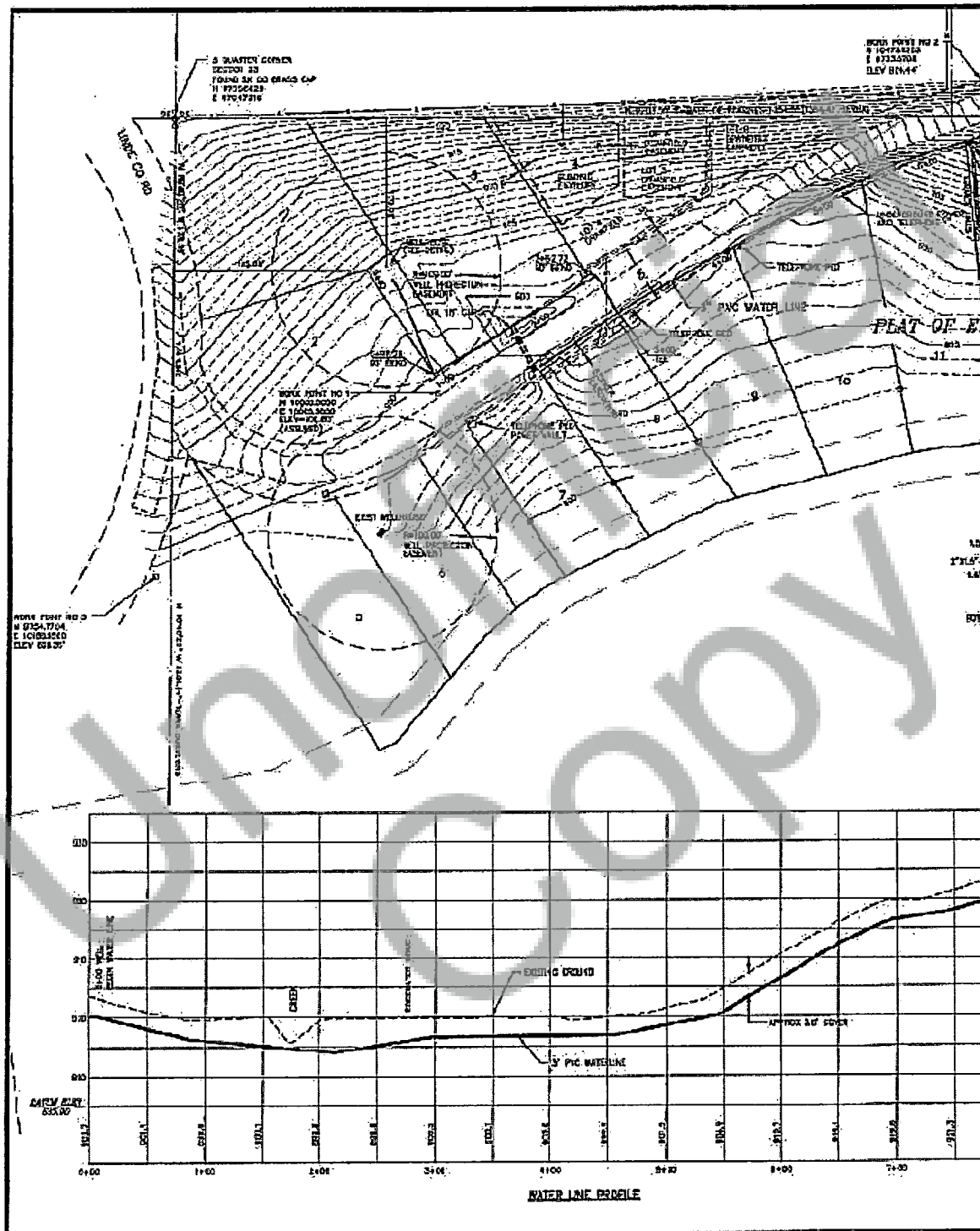


EXHIBIT E-1

