

DEQ DESIGNATION OF THE CITY OF PORTLAND
AS AUTHORIZED REPRESENTATIVE

1. Pursuant to ORS 465.250(2) and 465.260(2), the Oregon Department of Environmental Quality ("DEQ") designates the City of Portland, Bureau of Water Works ("City"), as an authorized representative of DEQ solely for purposes of access to the property ("Property") described in Attachments A and B to the Access Agreement Between Oregon Department of Environmental Quality and James McClaskey ("McClaskey Agreement"), which attachments and agreement are attached to this Designation as Attachment 1.

2. This Designation will enable City to enter upon the Property and to sample a groundwater monitoring well, known as MW-11, subject to the McClaskey Agreement. City may place and maintain a data logger at the well site to record water levels automatically. City agrees that paragraphs 2 through 4 and 8 of the McClaskey Agreement shall govern City's access to and activities upon the Property. Prior notice of sampling under Paragraph 3 of the McClaskey Agreement shall be provided from City to DEQ, then from DEQ to McClaskey.

3. DEQ shall not be considered a party to any contract made by City or its agents related to activities on the Property. City shall save and hold harmless the State of Oregon and its commissions, agencies, officers, employees, contractors, and agents, and indemnify the foregoing, from and against any and all

claims arising from negligent or wilful acts or omissions, or from acts or omissions not authorized under this Designation, related to activities upon the Property of City or its officers, employees, contractors, or agents.

CITY OF PORTLAND

Mike Lindberg,
Commissioner of Public Affairs

Date: _____

APPROVED AS TO FORM

Jeffrey L. Rogers

CITY ATTORNEY

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

Fred Hansen, Director

Date: _____

water\groundwtr.tt\mcclaskey.agr

ACCESS AGREEMENT BETWEEN
OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
AND JAMES MCCLASKEY

COPY

1. James McClaskey ("McClaskey") gives consent to the Oregon Department of Environmental Quality and its officers, agents, contractors, and authorized representatives ("DEQ") to enter onto Parcels 236 and 238 of the former Holman Redevelopment Area, described in Attachments A and B to this Agreement, respectively ("Property"), for the purpose of obtaining groundwater samples and water level measurements from the existing monitoring well no. MW-11 (State Well Designation 15CAAC1). Parcels 236 and 238, owned by McClaskey, are located north and northeast of the ICN Pharmaceutical and Oregon Fir Supply sites, where DEQ is overseeing site investigations. The access granted by this Agreement is limited in time to the period reasonable and necessary to undertake the activities described below. The access granted by this Agreement is not a permanent easement.

2. Sampling activities on the Property will include inspection of the MW-11 wellhead area, measurement of water levels, purging of the well of at least three well volumes before sampling, routine downhole measurements with hand-held monitoring devices, initial and quarterly sampling of groundwater, and followup sampling necessary to verify any detected contaminants. Sampling will entail bringing a cargo van onto the Property to the wellhead, if feasible. Routine quarterly sampling will be conducted on one day each quarter and will require less than one day's time. During any period of pumping of City of Portland Water Bureau water supply wells, monitoring will begin up to 48 hours before pumping begins and continue up to seven days after pumping ceases. Emergency pumping of City wells for summer water supply may be for a duration of up to 90 days, in which case monitoring of MW-11 will be conducted one day per week for the duration of the City's emergency pumping and continue up to seven days after such emergency pumping ceases.

3. At least 48 hours before any sampling of MW-11 (except in emergencies), DEQ shall notify McClaskey verbally or by facsimile of the intended sampling. DEQ shall provide McClaskey with the QA/QCd laboratory analysis of all water quality data collected from MW-11 and copies of all reports, studies, and other documents produced by or submitted to DEQ as a result of such sampling and pertaining to MW-11 or the Property, at no cost to McClaskey. Upon McClaskey's request, DEQ shall also make available to McClaskey a split of any samples collected from MW-11. Further, McClaskey may request access to MW-11 for a licensed contractor acceptable to DEQ to take samples. In the event of such sampling by McClaskey, McClaskey shall provide prior notice and make split samples available in accordance with

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this paragraph. Notices and laboratory analyses under this Agreement shall be provided to:

James McClaskey
Landerholm, Memovich, Lansverk & Whitesides
915 Broadway
Vancouver, WA 98666
(206) 696-3312
FAX: (206) 693-3652

4. By separate instrument and only for the purpose of access under ORS 465.250(2), DEQ may designate an authorized representative to perform sampling and monitoring of MW-11. Any such designation of an authorized representative shall require the authorized representative to comply with the above paragraphs 2 and 3.

5. Nothing in this Agreement constitutes an admission of liability by McClaskey regarding any release of hazardous substances at or from the Property. DEQ releases McClaskey from any liability to DEQ regarding hazardous substances found in soils at or groundwater underlying the Property, except: (a) to the extent any source of hazardous substance contamination of soils or groundwater is shown to have originated from an on-site, not off-site, source on the Property; or (b) to the extent McClaskey unlawfully hinders or delays remedial activities at a facility under ORS 465.255(1)(e). Subject to the preceding conditions, this release extends to successors and assigns of McClaskey, to subsequent purchasers of the Property, and to any lending institution taking a security interest in the Property in connection with refinancing or sale of the Property, unless such person or entity owned, operated, or is otherwise legally responsible for an off-site source affecting the Property. DEQ shall be responsible for obtaining any necessary permits and for disposal of any waste generated as a result of sampling activities.

6. To the extent permitted by Article XI Section 7 of the Oregon Constitution and by the Oregon Tort Claims Act, the State of Oregon shall save and hold harmless James McClaskey, and his successors and assigns, JAL indemnify the foregoing, from and against any and all claims arising from acts or omissions at the Property of DEQ.

7. Subject to paragraphs 5 and 6 above, nothing in this Agreement shall affect any claim for damages or any right of indemnification or enforcement McClaskey or DEQ might have against any person regarding activities under this Agreement.

8. Unless extended by mutual written agreement, this Agreement shall terminate one year from the last date of signature below. At least 60 days before termination, DEQ may submit to McClaskey a proposal for continued access to MW-11.

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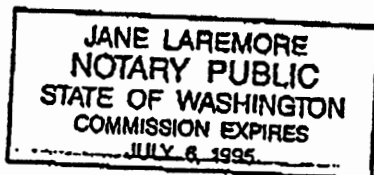
Within one month after termination, DEQ shall abandon, decommission, and remove the well in accordance with all applicable federal and state requirements, and shall restore the surface condition of areas disturbed by the well and activities of DEQ to a condition equal to or better than the condition existing before the activity; provided, DEQ reserves any right it may have under law to seek access to the Property.

9. In any action to enforce this Agreement, the prevailing party shall be entitled to attorney fees.

JAMES MCCLASKEY

Date: June 14, 1994.

SUBSCRIBED AND SWORN to before me this 14 day of June, 1994.



Jane Laremore
NOTARY PUBLIC OF OREGON WASHINGTON
My Commission Expires: 7-6-95

OREGON DEPARTMENT OF
ENVIRONMENTAL QUALITY

FRED HANSEN, Director

Date: _____

SUBSCRIBED AND SWORN to before me this ____ day of June, 1994.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

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"ATTACHMENT A"
Parcel 236

BOOK 1573 PAGE 1873

A parcel of land in Section 15, Township 1 North, Range 2 East of the Willamette Meridian, Multnomah County, Oregon, described as follows:

The East 200 feet of the West 500 feet of Lot 1, Block 108, PARKROSE, EXCEPTING THEREFROM that portion described as follows:

Beginning at a point on the West line of said parcel that is East 300.00 feet and South 226.00 feet from the Northwest corner of said Lot 1; thence South 81.53 feet to the Southwest corner of said parcel; thence along the Southerly line of said Lot 1, North 68°39'00" East 12.50 feet; thence North 19°58'02" East 59.19 feet; thence South 89°35'21" East 91.00 feet; thence South 89°37'29" East 77.72 feet; thence North 32.02 feet along the East line of aforementioned parcel; thence South 90°00'00" West 200 feet to the point of beginning; ALSO EXCEPTING THEREFROM:

A parcel of land lying in Lot 1, Block 108, PARKROSE, Multnomah County, Oregon, and being a portion of that property described in that deed to Author S. and Katherine Marie Harvey, recorded November 15, 1947, in Book 1221 page 120 of Multnomah County Record of Deeds; the said parcel being that portion of said property included in a strip of land 60 feet in width, 30 feet on each side of the center line of Holman Street as said street has been relocated, which center line is described as follows:

Beginning at Engineer's center line Station "H" 39+50', said station being 64.99 feet South and 1878.94 feet East of the Southeast corner of Block 111, Parkrose, Multnomah County, Oregon; thence South 88°26'34" East 367.95 feet; thence South 88°26'34" East 367.95 feet; thence on a 238.73 foot radius curve right (the long chord of which bears South 58°43'01.5" East) 247.71 feet; thence on a 125 foot radius curve left (the long chord of which bears South 84°29'44.5" East) 242.19 feet; thence North 40° East 60.00 feet to Engineer's center line Station "E" 47+64.85; and all of said Katherine Marie Harvey's contiguous real property location Northeast of relocation Holman Street.

STATE OF OREGON }
Multnomah County }

Director, Department of Agriculture
Division Services and Records of Conservation, and
the said County, do hereby certify that the within
instrument of writing was received for record and
returned in the record of _____
of said County of _____

1994 JUL 15 PM 2:50

RECORDED IN OREGON

In Quota 1573-1868-
address my hand and seal of office attested

Director
Department of Administration
Services

P. Thompson
Rec-17

Recorded by
Recorder (Electronic)

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"ATTACHMENT B"
PARCEL 238Basis of Bearings:
C.S. #46,478 by Waker Assoc. Inc.
dated 6-25-82

Scale: 1" = 100'

Legend

- 5/8" iron rod w/ Waker Assoc. Inc., plastic cap as per CS #46,478
- Fd 5/8" iron rod unless noted
- () Record

This information compiled from CS #46,478 by WAI, dated 6-25-82. See said survey for further details.

The West 150 feet of Lot 1, Blk. 108
Parkrose, Sec. 15, T.1N., R.2E., W.M.
Multnomah County, Oregon

REGISTERED
PROFESSIONAL
LAND SURVEYOR

L. Brian Weigart

OREGON
JULY 17, 1970
L BRIAN WEIGART
943

DEC 20 1982

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OREGON
JULY 17, 1970
L BRIAN WEIGART
943

DEC 20 1982

ORDINANCE No. 167898

- * Agreement with Oregon Department of Environmental Quality
Allowing City to Act as Authorized Representative of State
for Certain Ground Water Monitoring Activities (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland owns and operates a well field located in the Columbia South Shore area of the City as a back-up drinking water supply;
2. Some of the aquifers tapped by the City's wells have been contaminated by industrial solvents;
3. The Oregon Department of Environmental Quality (DEQ) is investigating the extent of and possible remedies for the contamination;
4. The City of Portland has been cooperating with DEQ in its investigation work and has itself pursued investigation work better to protect the Columbia South Shore Well Field from contamination;
5. DEQ and the City wish to have the City named as DEQ's authorized representative to enter certain private property in the well field area so that the City can undertake ongoing water monitoring; the monitoring is important to gauge the contamination threat to the well field and to help the City and DEQ determine to what extent the well field may be safely operated;

NOW, THEREFORE, the Council directs:

- a. The Commissioner of Public Utilities, Mike Lindberg, is authorized to sign for the City an intergovernmental agreement substantially in the form attached hereto.

Section 2. The Council declares that an emergency exists because the well field is not now available for unrestricted use because of the contamination and the City needs to return it to operation as soon as possible; therefore, this ordinance shall be in force and effect from and after its passage by the Council.

Passed by the Council, JUL 13 1994

Commissioner Mike Lindberg
TLThatcher:jtl
July 5, 1994

BARBARA CLARK
Auditor of the City of Portland
By *Britta Olson* Deputy

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Agenda No.

ORDINANCE NO. 167898

Title

*

Agreement

with Oregon Department of Environmental Quality Allowing City to
Act as Authorized Representative of State for Certain Ground Water
Monitoring Activities (Ordinance)

INTRODUCED BY	DATE FILED: JUL 8 1994
Commissioner Mike Lindberg <i>MDL</i> <i>(15)</i>	Barbara Clark Auditor of the City of Portland
NOTED BY COMMISSIONER	By: <u>Cary Kershner</u> Deputy
Affairs	For Meeting of: _____
Finance and Administration	ACTION TAKEN:
Safety	
Utilities	
Works	
BUREAU APPROVAL	
Bureau: Water Bureau	
Prepared by Date TLThatcher:jtl 7/5/94	
Budget Impact Review: ___ Completed <input checked="" type="checkbox"/> Not Required	
Bureau Head: <i>Michael Rosenberger</i> Michael Rosenberger	

AGENDA		FOUR-FIFTHS AGENDA		COMMISSIONERS VOTED AS FOLLOWS:		
					YEAS	NAYS
Consent <input checked="" type="checkbox"/>	Regular	Blumensauer	Blumensauer		<input checked="" type="checkbox"/>	
NOTED BY		Hales	Hales		<input checked="" type="checkbox"/>	
City Attorney		Kafoury	Kafoury		<input checked="" type="checkbox"/>	
City Auditor		Lindberg	Lindberg		<input checked="" type="checkbox"/>	
City Engineer		Katz	Katz		<input checked="" type="checkbox"/>	