

RETURN TO:

**STOKES LAWRENCE
VELIKANJE, MOORE & SHORE**
Attention: Erika N. Hartliep
120 N. Naches Avenue
Yakima, Washington 98901-2757

DECLARATION OF WELL MONITORING COVENANT

Declarant(s): (1) **FRYSLAN RANCHES ENTERPRISES, LLC**
(2) **FRIESLAND ENTERPRISES, LLC**
(3) **DEN BOER ENTERPRISES, LLC**

Abbreviated Legal Description: SE¼ SW¼ S18, T9N, R23EWM; NE¼ NW¼ S17, T9N, R23EWM; S½ SW¼ SW¼ S9, T9N R23EWM; SW¼ SW¼ S8, T8N, R23EWM; SE¼ SW¼ S8, T8N, R23EWM; NW¼ S17, T8N, R23EWM **Complete legal descriptions are on pages 8-11**

Assessor's Tax Parcel ID No(s): 230909-33001; 230917-21001; 230918-34001; 230808-33001; 230808-34001; 230817-21001

This Declaration of Well-Monitoring Covenant ("*Declaration*") is made this __ day of _____, 2017 (the "*Effective Date*") by **FRYSLAN RANCHES ENTERPRISES, LLC**, a Washington limited liability company ("*Fryslan*"), **FRIESLAND ENTERPRISES, LLC**, a Washington limited liability company ("*Friesland*") and **DEN BOER ENTERPRISES, LLC**, a Washington limited liability company ("*Den Boer*") (collectively the "*Declarants*").

RECITALS

A. Fryslan is the owner of the Fryslan Property, Friesland is the owner of the Friesland Property, and Den Boer is the owner of the Den Boer Property, as such terms are defined in Section 1 below.

B. On February 25, 2016, Fryslan submitted a Conditional Use Permit Application referred to as CUP 2016-00019 (the "*Permit Application*"), in which Fryslan sought approval from Yakima County (the "*County*") to operate a calf yard on the Feedlot Property, as such term is defined in Section 1 below. Upon approval of the Permit Application, Declarants intend to relocate all calves currently located on the Restricted Parcels to the Feedlot Property.

C. As a condition of approving the Permit Application, the County requires that the Declarants execute and record a Declaration of Well Monitoring Covenant, in which the affiliated Declarants agree to prohibit permit-exempt stock watering uses of the existing wells located on the Fryslan Property, the Friesland Property, and the Den Boer Property, and to limit the use of such

existing wells on the Restricted Parcels to domestic uses for the present and future residences and shops located on such properties after the calves are relocated from the Restricted Parcels to Fryslan Ranch (the "Permit Contingency").

D. In recognition that the calves have been relocated from the Restricted Parcels to Fryslan Ranch, the Declarants now desire to execute and record this Declaration in satisfaction of the Permit Contingency.

COVENANT. THE UNDERSIGNED, FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND ADEQUACY ACKNOWLEDGED, HEREBY DECLARE AND AGREE AS FOLLOWS:

1. **Definitions.** For purposes of this Declaration, the following terms shall have the following meanings:
 - 1.1. "Den Boer Property" means that certain Yakima County, Washington, real property, commonly referred to as Yakima County Assessor's Parcel Nos. 230918-34001 and more particularly described on Exhibit A.
 - 1.2. "Feedlot Property" means that certain Yakima County, Washington, real property owned by Fryslan and Fryslan's affiliate, FRH Enterprises, LLC, a Washington limited liability company. The proposed Feedlot Property is commonly referred to as Yakima County Assessor's Parcel Nos. 230808-33001, 230808-34001 and 230817-21001, and is more particularly described on attached Exhibit D (the "Feedlot Property").
 - 1.3. "Friesland Property" means that certain Yakima County, Washington, real property, commonly referred to as Yakima County Assessor's Parcel Nos. 230917-21001 and more particularly described on Exhibit B.
 - 1.4. "Fryslan Property" means that certain Yakima County, Washington, real property, commonly referred to as Yakima County Assessor's Parcel Nos. 230909-33001, and more particularly described on attached Exhibit C.
 - 1.5. "Restricted Parcels" means the Fryslan Property, the Friesland Property, and the Den Boer Property, collectively.
 - 1.6. "Subject Wells" means the permit-exempt wells currently located on the Restricted Parcels.
2. **Stock-Watering Restriction.** As of the Effective Date of this Declaration and so long as the Feedlot Property is used as a feedlot for livestock, the present and future owners of the Restricted Properties shall be prohibited from using the Subject Wells for stock-watering purposes, as otherwise permitted under RCW 90.44.050. Notwithstanding the foregoing, nothing contained in this Declaration shall prohibit the use of the Subject Wells for any permit-exempt uses allowed under RCW 90.44.050 other than stock-watering purposes for business and commercial purposes, with such stock-watering restriction not extending to supplying water for livestock raised for personal pleasure and youth 4-H and FFA projects.

3. Monitoring and Verification of Compliance.

- 3.1. **Well Water-Usage Meter.** Within *thirty (30) days* of calves being removed from a Restricted Parcel and placed on the Feedlot Parcel, Declarants shall install, at Declarants' sole expense, a water meter on that Restricted Parcel's Subject Well(s) to measure and record the water usage from such Subject Well(s).
- 3.2. **Annual Reporting.** Commencing on *January 15, 2019*, and again annually on *January 15th of each following year*, the present and future owners of the Restricted Parcels shall provide the County with a summary of the water usage from each Subject Well for the previous *twelve (12) month period*.
- 3.3. **Inspection.** Upon *forty-eight (48) hours* prior written notice to the owners of the Restricted Parcels, County staff are permitted to enter the Property during normal business hours to inspect the Subject Wells' water meters to determine compliance with this Covenant.
4. **Rights to Use Property.** The present and future owners of the Restricted Parcels may use the Restricted Parcels for any purpose that is not inconsistent with this Declaration.
5. **Binding Effect; Running with the Land.** This Declaration is binding on the undersigned parties and their respective heirs, successors, and assigns and constitutes perpetual restrictions, conditions, and covenants appurtenant to and running with the Restricted Parcels.
6. **Amendment.** This Declaration may be amended only by a signed and notarized writing, which references this Declaration, that is recorded with the Yakima County Auditor and signed by both the Grantor and the County.
7. **Termination.** This Declaration shall terminate upon and no longer be of any force or effect upon the sooner of (a) the date on which the Feedlot Property ceases to be used as a feedlot for livestock; or (2) upon the recording of a notice of termination of such covenants executed by the owner(s) of the Restricted Parcel(s) and the County, recorded with the Yakima County auditor.
8. **Governing Law and Venue.** This Declaration was made under the laws of the state of Washington, and if it becomes necessary to interpret or enforce any of this Declaration's terms, the laws of the state of Washington will apply. The proper and exclusive venue for any proceeding to interpret or enforce this Declaration will be Yakima County, Washington.
9. **Headings.** The captions and paragraph headings used in this Declaration are inserted for convenience of reference only and are not intended to define, limit, or affect the interpretation or construction of any term or provision of this Declaration.
10. **Attorney Fees.** If any party to or that benefits from this Declaration brings a legal action to interpret or enforce this Declaration, the substantially prevailing party in the action will be

entitled to an award of the reasonable attorney fees and costs the party incurs in the action, whether in mediation, arbitration, at trial, on appeal, or in a bankruptcy proceeding.

EXECUTED effective as of the Effective Date first stated above.

FRYSLAN RANCHES ENTERPRISES, LLC

By: Windmill Estates, LLC, Member

By: _____
Jacob Veldhuis, Manager

By: _____
Anna F. Veldhuis, Manager

FRIESLAND ENTERPRISES, LLC

By: Windmill Estates, LLC, Member

By: _____
Jacob Veldhuis, Manager

By: _____
Anna F. Veldhuis, Manager

DEN BOER ENTERPRISES, LLC

By: Windmill Estates, LLC, Member

By: _____
Jacob Veldhuis, Manager

By: _____
Anna F. Veldhuis, Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On _____, 2017, **JACOB VELDHUIS** ("*Signer*"), who is personally known to me or proved by satisfactory evidence to be the Signer, personally appeared before me and acknowledged that Signer executed the above-stated Declaration of Well Monitoring Covenant ("*Instrument*") as Signer's free and voluntary act and deed for the uses and purposes stated in the Instrument and that Signer is authorized to execute the Instrument in the following capacity:

- As Manager for **WINDMILL ESTATES, LLC**, a Washington limited liability company, Member of **FRYSLAN RANCHES ENTERPRISES, LLC**, a Washington limited liability company

(print name)
NOTARY PUBLIC in and for the state of Washington
My appointment expires _____

STATE OF WASHINGTON)
) ss.
COUNTY OF YAKIMA)

On _____, 2017, **ANNA F. VELDHUIS** ("*Signer*"), who is personally known to me or proved by satisfactory evidence to be the Signer, personally appeared before me and acknowledged that Signer executed the above-stated Declaration of Well Monitoring Covenant ("*Instrument*") as Signer's free and voluntary act and deed for the uses and purposes stated in the Instrument and that Signer is authorized to execute the Instrument in the following capacity:

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(print name)
NOTARY PUBLIC in and for the state of Washington
My appointment expires _____

STATE OF WASHINGTON)
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- As Manager for **WINDMILL ESTATES, LLC**, a Washington limited liability company, Member of **DEN BOER ENTERPRISES, LLC**, a Washington limited liability company

(print name)
NOTARY PUBLIC in and for the state of Washington
My appointment expires _____

EXHIBIT A

Legal Description of Den Boer Property

Assessor's Parcel No. 230918-34001:

The Southeast 1/4 of the Southwest 1/4 of Section 18, Township 9 North, Range 23, E.W.M., records of Yakima County, Washington;

EXCEPT the South 25 feet for road;

AND EXCEPT beginning at the Southwest corner of the Southeast 1/4 of the Southwest 1/4 of said Section;

thence East 190.0 feet;

thence North at right angles to the South line of said Section 25 feet to the true point of beginning;

thence North at right angles to the South line of said Section, 213.00 feet;

thence East parallel with the South line of said Section, 190.0 feet;

thence South at right angles to the South line of said Section, 213.00 feet;

thence West parallel with the South line of said Section, 190.0 feet to the point of beginning.

Situated in Yakima County, Washington.

EXHIBIT B

Legal Description of Friesland Property

Assessor's Parcel No. 230917-21001:

The Northeast 1/4 of the Northwest 1/4 of Section 17, Township 9 North, Range 23 E.W.M., records of Yakima County, Washington;

EXCEPT a right-of-way 80 feet wide as conveyed to the North Coast Railroad Company, now Oregon-Washington Railroad Company, by deed recorded in Volume 92 of Deeds, page 465;

AND EXCEPT the North 30 feet for county road;

AND EXCEPT the East 15 feet for county road.

Situated in Yakima County, Washington.

EXHIBIT C

Legal Description of Fryslan Property

Assessor's Parcel No. 230909-33001:

The South 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 9, Township 9 North, Range 23, E.W.M., records of Yakima County, Washington;
EXCEPT those portions lying within county roads on the South and West.

Situated in Yakima County, Washington.

EXHIBIT D

Feedlot Property

Assessor's Parcel No. 230808-33001:

That portion of the Southwest 1/4 of the Southwest 1/4 of Section 8, Township 8 North, Range 23 E.W.M., records of Yakima County, Washington, lying South of the Mabton Lateral.

Assessor's Parcel No. 230808-34001:

The West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 8, Township 8 North, Range 23, E.W.M., records of Yakima County, Washington, lying South of the Mabton Lateral.

Assessor's Parcel No. 230817-21001:

The Northwest 1/4 of Section 17, Township 8 North, Range 23 E.W.M., records of Yakima County, Washington.

Situated in Yakima County, Washington.