

After Recording Mail To:

✓ SCARPELLO & ALLING, LTD.

Post Office Box 3390

Stateline, NV 89449-3390

**SECOND AMENDED
COOPERATIVE WATER SYSTEM DECLARATION**

THIS SECOND AMENDED COOPERATIVE WATER SYSTEM DECLARATION (the "Second Amended Declaration") is made as of September 15, 2000, by Thomas Michael Yturbide, Sr. and Paula J. Yturbide, individually and as Co-Trustees of The Paula J. and Thomas Michael Yturbide Sr. 1991 Family Trust dated August 1, 1991; Selvin Passen and Sylvia H. Passen; Cary Lee Christie and Bambi Alperson Christie and Joseph Teresi (collectively "Declarants").

WITNESSETH:

WHEREAS, Declarants are the owners of certain real property hereinafter defined as the Service Area for the Water System contemplated and described herein; and

WHEREAS, some of the parties hereto (the "Original Declarants") executed that certain Cooperative Water System Declaration dated December 28, 1989, recorded January 2, 1990, in Book 190, Page 228, as Document No. 217503, in the Official Records of Douglas County, Nevada and re-recorded August 5, 1993, in Book 893, Page 865, as Document No. 314398, in the Official Records of Douglas County, Nevada (the "Original Declaration"); and

WHEREAS, some of the parties hereto executed that certain First Amended Cooperative Water System Declaration dated as of January 3, 1995, which was unrecorded (the "First Amended Declaration"); and

WHEREAS, Mark Mitchell and Christine A. Mitchell, did execute and record a Grant, Bargain and Sale Deed to Cary Lee Christie and Bambi Alperson Christie, recorded September 30, 1997, in Book 997, Page 6089, as Document 422835, in the Official Records of Douglas County, Nevada; and

WHEREAS, Harold R. Lucey and Barbara Darleen Lucey, as Co-Trustees of the Harold R. Lucey and Barbara Darleen Lucey 1978 Trust, did execute and record a Grant, Bargain and Sale Deed to Joseph Teresi, recorded August 25, 1998, in Book 898, Page 4960, as Document 447747, in the Official Records of Douglas County, Nevada; and

WHEREAS, Declarants desire to perpetuate the existing cooperative water system and arrangement which will both benefit and burden the real property that is a part of the Service Area described herein, will bind the owners thereof, their heirs, personal representatives, successors and assigns and will run with the land described herein, by the execution of this Second Amended Cooperative Water System Declaration which will amend and supersede all previous declarations.

NOW THEREFORE, it is hereby declared as follows:

I
DEFINITIONS

1.1 "Intake Line" shall mean and refer to that portion of water line or pipe extending from the Pump House to the point of diversion in Lake Tahoe.

1.2 "Main Distribution Line" shall mean and refer to that portion of water line or pipe extending from the Pump House to a single service connection per lot within the Service Area.

1.3 "Pump House" shall mean and refer to the pump house currently situate on or associated with Lots 7 and 8, as defined herein, as well as all of the pumping and other equipment presently or subsequently installed and maintained therein.

1.4 "Service Area" shall mean and refer to Lots 4, 5, 6, 7, 8, 23 and 24 (each herein a "Lot") of Subdivision No.1, CAVEROCKCOVE, LTD. TRACT, according to the official map thereof approved by the Board of County Commissioners of Douglas County, State of Nevada, on August 5, 1936, and filed in the office of the County Recorder of Douglas County, State of Nevada on September 26, 1936. The Service Area is identified on the map and legal description attached hereto as Exhibits A-1 and A-2, respectively, and incorporated herein by this reference.

1.5 "Storage Tank" shall mean and refer to any and all tanks used to store quantities of water to be used within the Service Area.

1.6 "User" shall mean and refer to the owner of each Lot within the Service Area, their heirs, personal representatives, successors and assigns.

1.7 "Water Source" shall mean and refer to all those water rights described as follows:

(a) Permit 13034, Certificate 3959 for 0.001 cfs, not to exceed 0.25 afa (Owned by Thomas and Paula Yturbide).

(b) Permit 53771 for 0.0039 cfs, not to exceed 2.80 afa (Owned jointly by Paula J. and Thomas Michael Yturbide 1991 Family Trust (1.120 afa); Selvin and Sylvia Passen (1.120 afa); and Harold R. Lucey and Barbara Darleen Lucey 1978 Trust (0.560 afa)).

(c) Permit 62995 for 0.0012 cfs, not to exceed 0.50 afa (Owned by Selvin and Sylvia Passen).

(d) Permit 63555 for 0.0013 cfs, not to exceed 0.56 afa (Owned by Cary Lee Christie and Bambi Alperson Christie).

1.8 "Water System" shall mean and refer to the Intake Line, Pump House, Storage Tank and Main Distribution Line currently in existence and presently associated with Lots 7 and 8 and which may hereafter be constructed.

II **EASEMENTS**

By this Second Amended Declaration, easements created by the Original Declaration and the First Amended Declaration over: (1) strips of land fifteen feet (15') in width centered over existing Intake or Main Distribution Lines; and (2) that portion of land upon which the Pump House is situate, are acknowledged, confirmed and ratified and counterpart easements are hereby created over any additional Main Distribution Lines that are necessary to extend to all lots within the Service Area described herein. Each of (1) and (2) are more particularly described and identified on that certain Record of Survey for Selvin Passen of Lots 7 and 8, of Subdivision No. 1, CAVEROCKCOVE, LTD. TRACT, recorded January 3, 1995, as Document No. 353750, Official Records of Douglas County, Nevada and incorporated herein by this reference, which Record of Survey is supplemented by a legal description of any such additional Main Distribution Lines attached hereto as Exhibit "B". The easements created or acknowledged by the Original Declaration, the First Amended Declaration and this Second Amended Declaration are superior and paramount to any rights in the servient estates so created and are covenants that shall run with the land.

III

ALLOCATION, USE, QUALITY AND QUANTITY OF WATER

Each User shall be entitled to receive and use an amount of water from the Water Source up to the limit of water rights owned by such User on any and all Lots within the Service Area owned by such User. Any and all water so received may only be used for domestic and quasi-municipal purposes. The minimum water quality standards which must be met prior to the water leaving the Pump House shall be determined by a majority vote of the Users.

Each User agrees to cooperate in acquiring and transferring into the Water Source such additional water rights as may be required for use within the Service Area. Any water rights so acquired by a User hereto for use within the Service Area shall become a part of the Water Source and such User agrees to take any steps necessary to transfer any such additional water rights to the Water Source.

IV

INSTALLATION OF WATER SYSTEM

Any installation of the Water System necessary hereunder shall be at the direction, supervision and control of Declarants. Operation, maintenance and required capital expenditures in connection with of the Water System described herein shall be divided equally amongst the Users in existence at the time any such expenses are incurred. Any costs and expenses so allocated to a User shall be set forth in writing and must be paid within five (5) days after notice thereof. Any allocated costs and expenses not paid within said five (5) day period, together with an eighteen percent (18%) late charge and interest at the rate of eighteen percent (18%) per annum, costs and attorney's fees, if any, shall be a charge and continuing lien upon the User's lot(s), the lien to be effective upon recordation of a Notice of Delinquency.

V

VOTING RIGHTS

Any and all decisions regarding the improvement, operation or maintenance of the Water System described herein, shall be decided by a vote of the Users entitled to exercise at least three-fourths ($\frac{3}{4}$) of the then authorized votes. Each User shall be entitled to one vote for each Lot owned within the Service Area. Such voting by the Users shall occur by a special meeting with due written

notice given to all Users and shall occur within a reasonable time following the receipt of written notice of the matter to be voted upon.

VI

NOTICES

Any notice permitted or required to be given hereunder may be delivered by certified mail, postage prepaid and return receipt requested, to the addresses set forth herein or as supplemented according to the terms hereof. A User may change his address for notice purposes, or addresses of additional Users may be added hereto, by delivering written notice thereof to all of the then existing Users. For purposes of this provision, notice to Declarants shall be effective if such mailing is addressed and mailed to:

Thomas M. Yturbide, Co-Trustee
Paula J. Yturbide, Co-Trustee
Post Office Box 855
Zephyr Cove, Nevada 89448-0855

With a copy to:
Scarpello & Alling, Ltd.
Attn: Ronald D. Alling, Esq.
Post Office Box 3390
Stateline, Nevada 89449-3390

Selvin Passen
Sylvia H. Passen
Post Office Box 12246
Zephyr Cove, Nevada 89448-9448

With a copy to:
Thomas J. Hall, Esq.
Post Office Box 3948
Reno, Nevada 89505-3948

Cary Lee Christie & Bambi Alperson Christie
774 Mays Blvd., Suite 10
Incline Village, Nevada 89451

Joseph Teresi
2400 Laguna Drive
Ft. Lauderdale, Florida 33316

VII

ADDITIONAL USERS

Access to and use of the Water System and the water described herein may be made available to additional users within the Service Area only upon the unanimous vote of the then existing Users.

VIII

MISCELLANEOUS

8.1 Upon execution, this Declaration shall be recorded in the Office of the Recorder for Douglas County, Nevada.

8.2 In the event of any controversy, claim or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

8.3 This Declaration shall be governed and controlled by the laws of the State of Nevada and venue shall be in the courts of Douglas County, Nevada.

8.4 Whenever the context requires, the gender of all words used herein shall include the masculine, feminine and neuter, and the number of all words shall include the singular and plural thereof.

8.5 This instrument may be signed in one or more counterparts which, when taken together, shall form one and the same instrument.

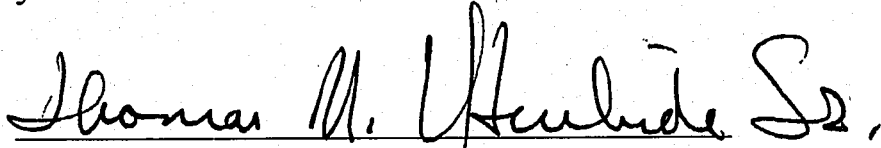
IX

AMENDMENTS

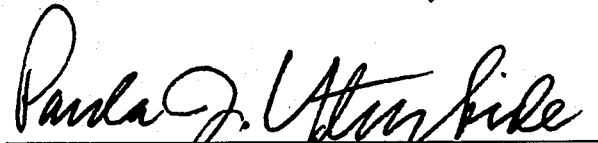
This Second Amended Declaration shall amend and supersede the Original Declaration, the First Amended Declaration and all other declarations or agreements, written or oral, between the parties thereto or hereto in connection with the subject matter of this Second Amended Declaration

Neither this Second Amended Declaration, nor any term or provision hereof, may be changed, waived, discharged, or terminated orally, but only by an instrument in writing referencing this document and signed by all of the Users then in existence.

IN WITNESS THEREOF, the Declarants have executed this instrument as of the day and year first above written.



THOMAS MICHAEL YTURBIDE, SR.,
Co-Trustee and as an individual.



PAULA J. YTURBIDE, Co-Trustee
and as an individual.

SELVIN PASSEN

SYLVIA H. PASSEN

CARY LEE CHRISTIE

BAMBI ALPERSON CHRISTIE

JOSEPH TERESI

Neither this Second Amended Declaration, nor any term or provision hereof, may be changed, waived, discharged, or terminated orally, but only by an instrument in writing referencing this document and signed by all of the Users then in existence.

IN WITNESS THEREOF, the Declarants have executed this instrument as of the day and year first above written.

THOMAS MICHAEL YTURBIDE, SR.,
Co-Trustee and as an individual.

PAULA J. YTURBIDE, Co-Trustee
and as an individual.

Selvin Passen, M.D.

SELVIN PASSEN

Sylvia H. Passen

SYLVIA H. PASSEN

CARY LEE CHRISTIE

BAMBI ALPERSON CHRISTIE

JOSEPH TERESI

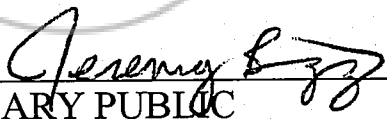
STATE OF NEVADA)
) ss.
COUNTY OF DOUGLAS)

On _____, 2000, personally appeared before me, a Notary Public, MICHAEL YTURBIDE, SR. and PAULA J. YTURBIDE, known (or proved) to me to be the persons whose names are subscribed to the above instrument and who acknowledged that they executed the instrument.

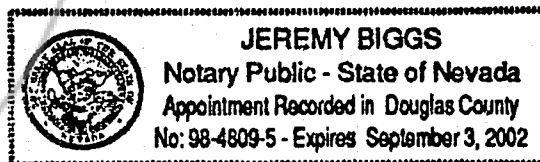
NOTARY PUBLIC

STATE OF NEVADA)
) ss.
COUNTY OF DOUGLAS)

On SEPTEMBER 15, 2000, personally appeared before me, a Notary Public, SELVIN PASSEN and SYLVIA H. PASSEN, known (or proved) to me to be the persons whose names are subscribed to the above instrument and who acknowledged that they executed the instrument.



NOTARY PUBLIC



Neither this Second Amended Declaration, nor any term or provision hereof, may be changed, waived, discharged, or terminated orally, but only by an instrument in writing referencing this document and signed by all of the Users then in existence.

IN WITNESS THEREOF, the Declarants have executed this instrument as of the day and year first above written.

THOMAS MICHAEL YTURBIDE, SR.,
Co-Trustee and as an individual.

PAULA J. YTURBIDE, Co-Trustee
and as an individual.

SELVIN PASSEN

SYLVIA H. PASSEN



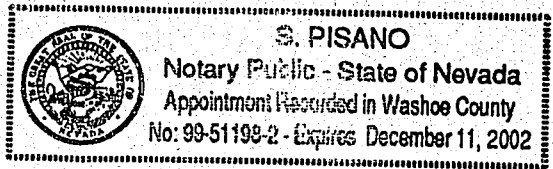
CARY LEE CHRISTIE



BAMBI ALPERSON CHRISTIE

JOSEPH TERESI

STATE OF NEVADA)
) ss.
COUNTY OF Washoe)



On 5.18, 2000, personally appeared before me, a Notary Public, CARY LEE CHRISTIE and BAMBI ALPERSON CHRISTIE known (or proved) to me to be the persons whose names are subscribed to the above instrument and who acknowledged that they executed the instrument.

S. PISANO
NOTARY PUBLIC

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 2000, personally appeared before me, a Notary Public, JOSEPH TERESI known (or proved) to me to be the person whose name is subscribed to the above instrument and who acknowledged that he executed the instrument.

NOTARY PUBLIC

Neither this Second Amended Declaration, nor any term or provision hereof, may be changed, waived, discharged, or terminated orally, but only by an instrument in writing referencing this document and signed by all of the Users then in existence.

IN WITNESS THEREOF, the Declarants have executed this instrument as of the day and year first above written.

THOMAS MICHAEL YTURBIDE, SR.,
Co-Trustee and as an individual.

PAULA J. YTURBIDE, Co-Trustee
and as an individual.

SELVIN PASSEN

SYLVIA H. PASSEN

CARY LEE CHRISTIE

BAMBI ALPERSON CHRISTIE

Joseph Teresi

JOSEPH TERESI

STATE OF NEVADA)
) ss.
COUNTY OF _____)

On _____, 2000, personally appeared before me, a Notary Public, CARY LEE CHRISTIE and BAMBI ALPERSON CHRISTIE known (or proved) to me to be the persons whose names are subscribed to the above instrument and who acknowledged that they executed the instrument.

NOTARY PUBLIC

STATE OF FLORIDA)
) ss.
COUNTY OF BROWARD)

On MAY 3, 2000, personally appeared before me, a Notary Public, JOSEPH TERESI known (or proved) to me to be the person whose name is subscribed to the above instrument and who acknowledged that he executed the instrument.

Allen E. Fields
NOTARY PUBLIC

OFFICIAL NOTARY SEAL
ALLEN E FIELDS
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC569672
MY COMMISSION EXP. JULY 31, 2000

REQUESTED BY
Scarpella + Alling
IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

2000 SEP 19 AM 9:28

LINDA SLATER
RECORDER

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