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Original

AGREEMENT

This agreement, made and entered into this 24th day of May, 1968, between ROBERT F. STARBUCK and JACQUELINE FORMAN STARBUCK, individually and as husband and wife, hereinafter referred to as Owner, and PACIFIC POWER & LIGHT COMPANY, a corporation, hereinafter referred to as Pacific.

WHEREAS:

A. Owner is the owner of record of certain land located adjacent to the Klamath River in Klamath County, Oregon, described in Exhibit A attached hereto, and hereinafter called Owner's land; and

B. Pacific owns certain lands along the Klamath River on which are located projects and structures used for generating hydroelectric power and for partially regulating and controlling the level and flows in the Klamath River, which projects and structures Pacific owns and operates and has owned and operated in the course of its business in supplying the public generally with electricity; and

C. Pacific anticipates it may desire to dredge certain portions of the channel of the Klamath River in the vicinity of Owner's land and desires to obtain for a limited time the right and option to deposit on Owner's land spoil material resulting from the contemplated dredging operation; and

D. Pacific has paid to Owner and Owner has received and accepted as valuable consideration from Pacific a sum of money for the right and option of Pacific to deposit such spoil material on Owner's land and for the release by Owner of any and all claims for damages of any nature whatsoever arising out of the flooding of Owner's land during the period from December

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1, 1964 and May 1, 1965.

NOW, THEREFORE, each of the parties hereto does covenant and agree with the other as follows:

I. Spoil Area Location

Pacific has acquired the right and option to deposit spoil material from its dredging operations on that portion of lands owned by John E. Kite designated as Spoil Area 8. Pacific agrees that in the event it deposits spoil on said Spoil Area 8 that it will also deposit spoil material as herein defined on a spoil area which embraces a portion of lands of Owner located in Klamath County, Oregon, and described in Exhibit A hereto.

The area, herein referred to as Spoil Area 18, includes approximately 20 acres of Grantor's land in a strip approximately 750 feet in width on the south side of Klamath River and is the area heavily outlined and marked "Outer Limit of Spoil Area" on a drawing entitled Spoil Area 18, marked Exhibit B hereto, which drawing is made from a composite of certain aerial photographs.

II. Nature of Operation--Spoil Material to be Deposited

Pacific may deposit spoil material on lands of Owner within Spoil Area 18 either through its own agents and employees or through independent contractors. The spoil material will be pumped from the bed of the Klamath River by hydraulic suction and will be deposited on the lands through hoses or pipes. Spoil material shall consist of "run of the river" material including, but not limited to, silt, peat, sand, clay, minerals and aggregate; no screening of materials either during or prior to placement on the land is contemplated and none shall be required other than that which is inherent in the dredging and placement method to be used. Pacific specifically disclaims

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the existence of any warranty or representation as to the quality of the spoil material to be deposited or as to its fitness or suitability for any purpose.

III. Notice of Commencement; Time for Completion of Operations; Removal of Fences and Other Structures and Right of Access

No spoil material shall be deposited hereunder unless Pacific shall first give to Owner three months written notice of intention to deposit spoil material; provided that the temporary discontinuance of placement operations for a period of less than 60 consecutive days shall not require a new three months notice before resumption of operations is permitted. No new deposit of material on the spoil area shall be made after December 31, 1974, excepting only deposit of such additional material as may be necessary for leveling operations to comply with the elevation requirements hereinafter set forth.

When Pacific shall give three months notice of intent to deposit spoil material as herein provided on Spoil Area 18, Owner shall have the right to remove therefrom at Owner's expense any and all fences and structures. If Owner shall fail to do so within 45 days following such notice by Pacific, Pacific shall have the right to cause any or all such unremoved fences and structures to be removed or eliminated at the expense of Pacific

without any obligation on the part of Pacific to account for any materials or items removed; provided, however, that all such fences and structures as may have been placed upon the spoil area after the execution of this agreement, if removed by Pacific, shall be removed at Owner's expense and

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and without obligation upon Pacific to account for materials removed.

Owner covenants that Pacific and its agents, employees and independent contractors hired by it to carry on any part of the dredging or spoil placement operation shall have the right of ingress to and egress from the spoil area mentioned herein over and across existing roadways on lands of Owner, wherever practical, and where such necessary access is impractical over existing roadways, Pacific or its contractors shall have the right of ingress and egress over alternate routes on lands of Owner, such routes to be designated and marked by Pacific and the number thereof to be kept to a minimum. Ingress to and egress from the spoil area shall be confined to such access routes so as not to unreasonably interfere with the use of Owner's other lands. All gates and enclosures on Owner's other lands shall be kept closed by Pacific and its contractors except during such time as the activities of Pacific or its contractors shall require such gates and enclosures to be opened following which such gates and enclosures shall be immediately closed. Except for such ways of access Pacific and its contractors shall confine their activities to the spoil area shown in Exhibit B.

Nothing in this agreement shall be construed to limit in any manner the use by Owner of his lands described in Exhibit A, including the spoil area, in connection with Owner's farming operations except when and if such use shall actually interfere with the placing of spoil on the spoil area.

IV. Median Elevation--Surface Level

The final median elevation of Spoil Area 18 (after spoil deposit and necessary leveling) shall be at an elevation selected by Pacific or by its independent contractor with its approval, provided that such elevation shall be not less than minimum elevation 4,087 feet U.S.B.R. datum and not more

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than maximum elevation 4,091 feet U.S.B.R. datum.

The ground surface shall be leveled within plus or minus 12 inches from the median elevation so selected for Spoil Area 18; provided, however, that the final determination of median elevation and of ground surface level shall be made at a time selected by Pacific, or by its contractor if the spoil placement is done by an independent contractor, which time shall not be sooner than three months after completion of deposit of spoil on Spoil Area 18 and not later than twelve months after such final deposit.

V. Dikes

If and when spoil deposits are made under this agreement, all existing dikes along the river edge or bank adjacent to Spoil Area 18, shall be reconstructed by Pacific at its expense to conform to a landward slope of one vertical to eight horizontal with a top elevation of either (a) 4,090 feet U.S.B.R. datum, or (b) the selected final median elevation for Spoil Area 18, whichever elevation is greater, with the toe of said slope to begin at the 4,085-foot elevation contour U.S.B.R. datum. Fill along the southerly boundary of Spoil Area 18 shall be finished by Pacific at its expense to conform to a field slope of one vertical to four horizontal or less.

There presently exists on Owner's property within Spoil Area 18, three irrigation ditches as shown on Exhibit B. If Pacific deposits spoil on Spoil Area 18 it may at its election deposit spoil on and across the easterly and central irrigation ditches within Spoil Area 18, but shall at all times protect the irrigation ditch on the westerly boundary of said Spoil Area.

The aforementioned westerly irrigation ditch shall be extended by Pacific to the edge of the river and the head gate and culvert presently

located at the river edge of the central irrigation ditch shall be either relocated at the river edge of the aforementioned extension of the westerly irrigation ditch, or Pacific may at its option install at the river edge entrance of the extended westerly irrigation ditch a new headgate and culvert of the same size and quality as that removed. Pacific shall pay all costs incurred for the extension of the westerly irrigation ditch and the relocation of the headgate and culvert or the installation of a new headgate and culvert. The invert elevation of the extended irrigation ditch shall be approximately 4,082 U.S.B.R. datum, and that of the headgate and culvert shall be approximately 4,083 U.S.B.R. datum.

Pacific shall further cause to be built at its expense any construction-retaining and cross dikes needed during the course of the spoil placement operation to contain deposited spoil material in place within the confines of the spoil area. Owner shall have the option to require Pacific to remove from the Spoil Area at its expense such retaining or cross dikes, said option to be exercised by Owner in writing not later than two weeks following notice by Pacific that it is ready to commence such removal.

In constructing cross or retaining dikes, Pacific shall have the right to use therefor either such "run of the river" material or earth and other materials within the spoil area or a combination of such materials; it shall have no obligation to supply or use any other materials for such purpose, and no liability shall be imposed on it on

account of its failure to use other or different or more efficient materials or methods in connection with such dike construction and reconstruction.

Pacific does not assume or undertake any obligation to maintain or to keep in repair any dike or ditch referred to herein after it shall once have been completed in the manner provided for in this agreement. Pacific does not warrant the quality of or fitness for purpose of any such dike or ditch except as hereinabove provided; provided, however, spoil retaining dikes shall be sufficient to retain the spoil placed within them.

VI. Transfer of Land Interests

Owner covenants that, before making effective delivery of any instrument or document for the purpose of leasing or demising or making any voluntary conveyance of a right, title, or interest, including any security interest, in or to all or any part of Owner's land at any time prior to December 31, 1975, Owner shall notify the person or persons to whom the land is to be leased or to whom the conveyance of an interest is to be made of the existence of this agreement, shall inform such person or persons that the agreement concerns Owner's land and the use to which it may be put, and shall either direct such person or persons to Pacific for information concerning the contents of this agreement or furnish him or them for examination a copy of this agreement. Owner further covenants that if he has executed a will or testament, or if hereafter at any time prior to December 31, 1975, he shall execute a will or testament or codicil, he shall inform the executor named and appointed in such will, testament

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or codicil, if there be any such executor, of the existence of this agreement and of the fact that it concerns Owner's land and the use to which it may be put and will furnish him for examination a copy of the agreement.

VII. Notices

Any notice to be given in writing by Owner to Pacific under the terms of this agreement shall be effective if sent by mail or telegram addressed to Pacific either at such regular office as it may have at Klamath Falls, Oregon, or at Pacific's main office in Portland, Oregon. Any notice to be given to Owner in writing by Pacific under this agreement shall be effective if sent by mail or telegram addressed to Owner or Owner's heirs, personal representatives, successors or assigns at Owner's present address, which is P. O. Box 105, Keno, Oregon. Each shall notify the other in writing of any change of address to which such notices shall be sent.

VIII. Warranty Against Other Conveyances

Owner warrants that he has not conveyed or caused to be conveyed to anyone any right, title, or interest in any of the land included within the boundaries of Spoil Area 18. Owner further warrants and represents that to the best of his knowledge and belief there exists no contract or grant of an easement, license, or profit affecting the lands owned by him as described in Exhibit A in such a way that performances in accordance with such contract or grant would materially interfere with or prevent exercise by Pacific of substantially all of the rights and privileges of Pacific

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hereunder.

Owner has informed Pacific that the lands described in Exhibit A are subject to a mortgage held by The Prudential Insurance Company of America, Seattle, Washington. By affixing its signature hereto by one of its appropriate officers, said mortgagee does consent to this agreement and the terms thereof and does further consent to subjecting the lands described in Exhibit A hereto to the terms of this agreement.

IX. Impossibility of Complete Performance

If for any reason beyond its reasonable control Pacific shall be prevented by operation of law from depositing or causing to be deposited spoil material on any portion of Spoil Area 18, this agreement shall nevertheless remain in full force and effect as to all other portions of Spoil Area 18.

X. Construction: Succession to Interests and Covenants

Each of the duties and obligations imposed on Owner by this agreement and each of the rights, privileges, and options conferred by this agreement on Pacific, without regard to the form of language used herein to express the same, shall be construed and considered as a separate covenant on the part of Owner in favor of Pacific, and each of the duties and obligations imposed on Pacific by this agreement and each of the rights, privileges, and options conferred on Owner by this agreement shall, without regard to the form of language used herein to express the same, be construed and considered as a separate covenant on the part of Pacific, its successors or assigns, in favor of Owner. This agreement and each such covenant

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thereof on Pacific's part shall be binding upon and inure to the benefit of the heirs, representatives, successors and assigns of Owner, and each and every such covenant herein on the part of Owner shall be treated and considered as a covenant to forever run with and in favor of Pacific and bind the lands of Owner, as described in Exhibit A, and every portion thereof and every owner, tenant, or occupant of, or holder of any right, title, or interest in or to all or any portion of such lands.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

PACIFIC POWER & LIGHT COMPANY

Attest: *F. L. Sullivan*
Assistant Secretary

By *Robert F. Starbuck* (SEAL)
Vice President

R.J.H.

Robert F. Starbuck
Robert F. Starbuck

Jacqueline Forman Starbuck
Jacqueline Forman Starbuck
Individually, and as husband and wife

Consent of Mortgagee

We have read the foregoing agreement and consent to subjecting to the terms thereof the lands described in Exhibit A to said agreement, which lands are encumbered as follows:

Mortgage, including the terms and provisions thereof, executed by Robert F. Starbuck and Jacqueline Forman Starbuck, husband and wife, to The Prudential Insurance Company of America, dated March 31, 1966, recorded April 1, 1966, in Volume M66 page 2893, records of Klamath County, Oregon.

THE PRUDENTIAL INSURANCE COMPANY OF AMERICA

By *M. B. Nash*
M. B. Nash, Production Manager

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STATE OF OREGON

County of Multnomah

ss.

On the 24th day of May, 1968, personally appeared John Y. Lansing, who being duly sworn, did say that he is a Vice President of PACIFIC POWER & LIGHT COMPANY, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and he acknowledged said instrument to be its voluntary act and deed.

Before me:

Richard J. Kinnigh
Notary Public for Oregon
My Commission expires: 2-19-1969

STATE OF OREGON

County of *Klamath*

ss.

On the 24th day of May, 1968, personally appeared the above-named Robert F. Starbuck and Jacqueline Forman Starbuck and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Robert M. Willard
Notary Public for Oregon
My Commission expires: July 19, 1968

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EXHIBIT A

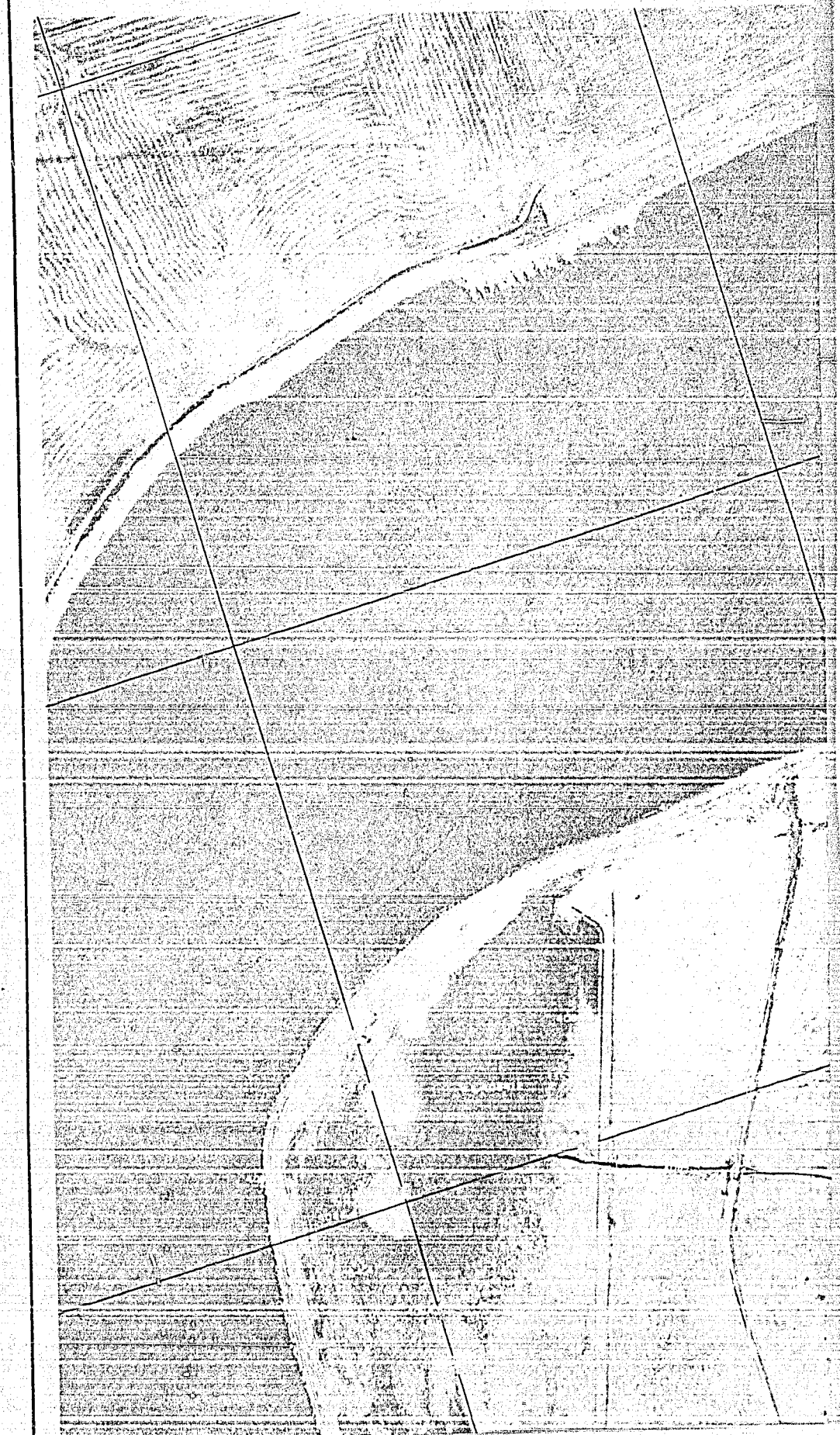
Owner's Land

All of Lot 9 and the Southeast quarter of
the Northwest quarter of Section 8,
Township 40 South, Range 8 East of the
Willamette Meridian, County of Klamath,
State of Oregon.

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EXHIBIT A

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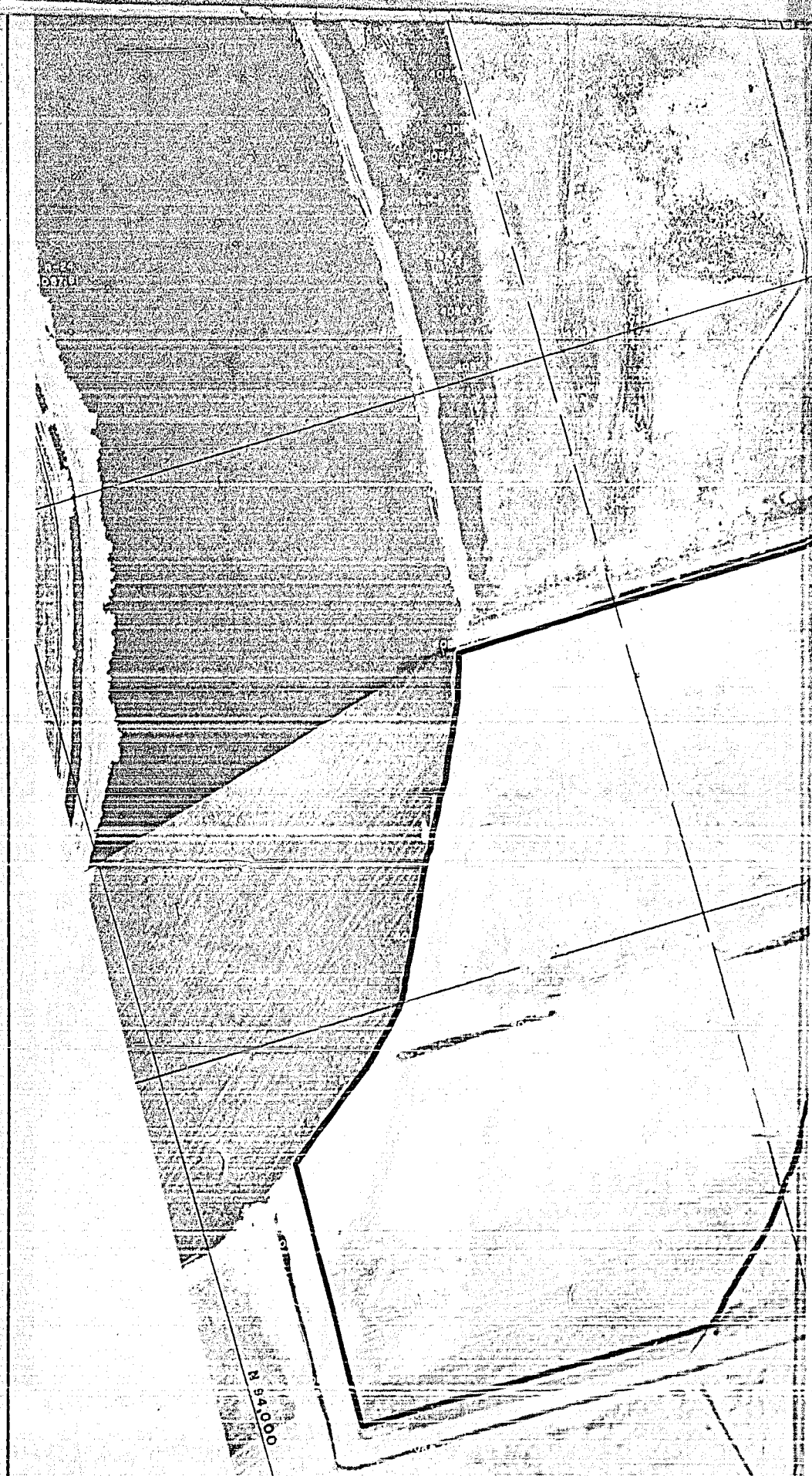


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E 107.000



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N 84.000

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PREPARED BY THE OFFICE OF H.G. CHICKERING JR., CONSULTING PHOTOGRAMMETRIST

OUTER LIMIT OF SPOIL AREA

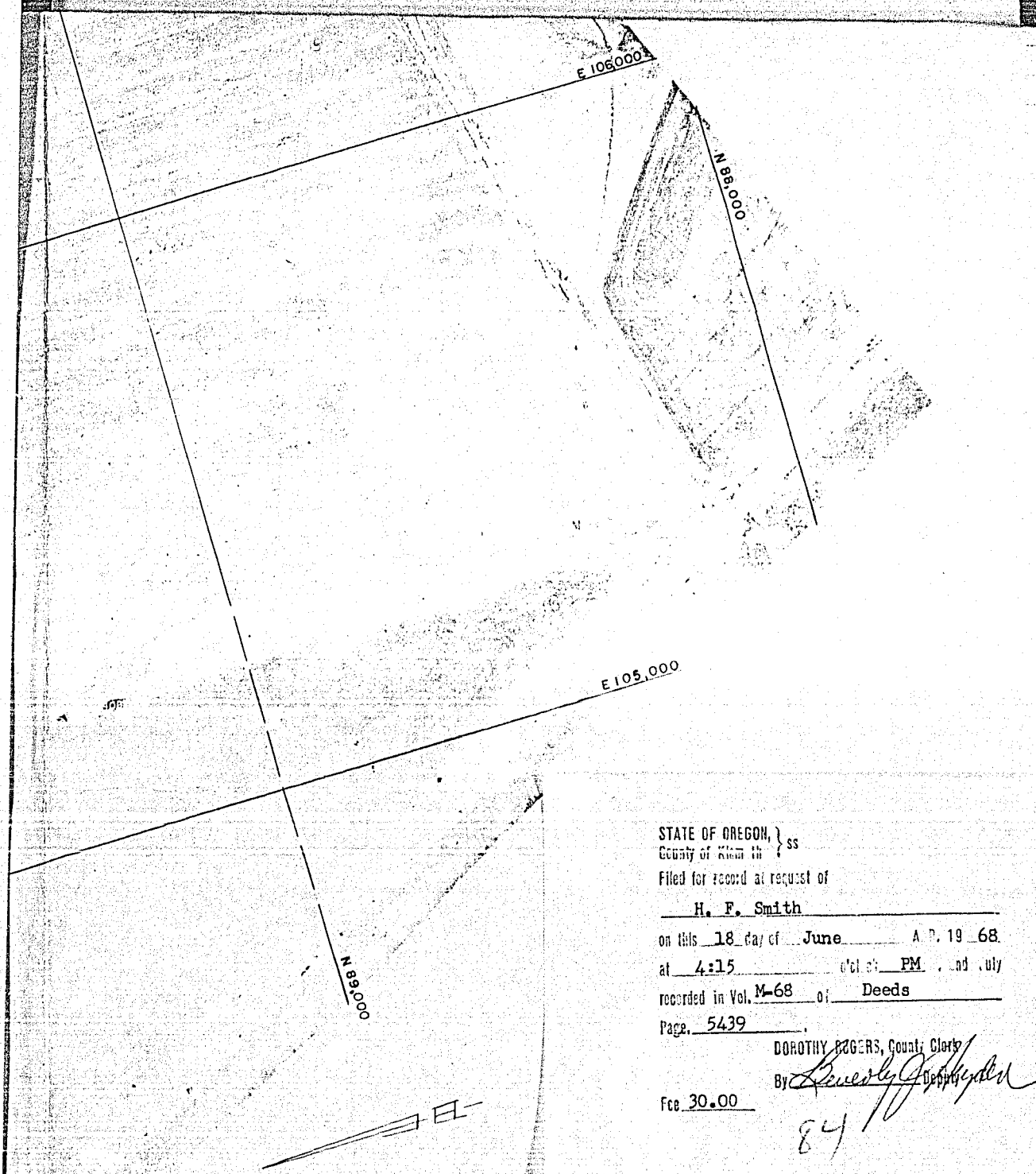
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IST INC. EUGENE, OREGON

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STATE OF OREGON, } ss
 County of Clatsop }
 Filed for record at request of
H. F. Smith
 on this 18 day of June A.D. 19 68
 at 4:15 o'clock PM and duly
 recorded in Vol. M-68 of Deeds
 Page 5439

DOROTHY ROGERS, County Clerk
 By Lester J. Rogers
 Fee 30.00
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EXHIBIT B

Sec. 8, Twp. 40 S., Rng. 8 E., W.M.

ER		SPOIL AREA 18			
DATE 3-26-68					
DES	DR				
TR	CH				
APPROVED		PACIFIC POWER & LIGHT COMPANY PORTLAND, OREGON 5458			
CHIEF DESIGN ENG.					
HEAD OF ELEC. ENGRG.					
SCALE: 1" = 200'		SHEET	OF	PE-	REV.

E 104,000