

98846

28-01-02

THIS LEASE, made effective as of the 27th day of February, 1975, by and between the undersigned, whether one or more, hereinafter collectively referred to as "lessor," and HATOMAS COMPANY, a corporation, hereinafter referred to as "lessee,"

RECEIVED MAR 12 1975

11:00 am

WITNESSETH: That for valuable consideration, receipt of which is hereby acknowledged, and of the covenants and agreements hereinafter contained, Lessor does lease, let and demise unto Lessee, its successors and assigns the following described land (hereinafter referred to as the "leased land") for the purposes and with the sole and exclusive right of exploring, drilling, mining and operating for geothermal steam, geothermal fluids, or by-products thereof, and taking, storing, removing and disposing of same, whether for the production of energy or other commercial uses, and uses and purposes incidental thereto, together with the right to construct any and all facilities on the leased land as may be necessary for these operations including but not limited to pipelines, power-lines, tanks, power stations, ponds, roads and structures thereon to explore for, produce, save, take care of and dispose of geothermal steam, geothermal fluids, or by-products thereof, on or from the leased land or other land leased by Lessee or in which Lessee may have an interest in the vicinity of the leased land:

All that certain tract of land situated in the County of Klamath, State of Oregon, being, to-wit:

The NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 6, Township 40 South, Range 9 East, Willamette Meridian.

and containing 40 acres, more or less.

TO HAVE AND TO HOLD the leased land for a term of Ten (10) years from and after the date hereof, and so long thereafter as geothermal steam, geothermal fluids, or by-products thereof, or either or any of them, are produced from the leased land in quantities deemed paying by Lessee, or so long thereafter as Lessee in good faith shall continue mining, drilling, re-drilling, deepening or remedial operations on the leased land or be excused therefrom, as hereinafter provided.

1. Lessee agrees to pay Lessor as royalty one-tenth of the gross proceeds received by Lessee from the sale of geothermal steam, geothermal fluids, or by-products thereof, produced from the leased land. If Lessee elects to process by-products before sale, Lessor's royalty share shall bear its proportionate share of such processing or extraction costs.

2. If no well be commenced on the leased land within one (1) year from the date hereof, Lessee shall pay or tender to Lessor the sum of \$200.00 as a rental for the privilege of deferring the commencement of a well for one (1) year from said date. In like manner and upon like payments or tenders the commencement of a well may be further deferred for successive one (1) year periods. All payments or tenders may be made by check or draft, mailed or delivered to Lessor

3. After Lessee has commenced drilling operations on the leased land, Lessee may, at its option, at any time and from time to time, suspend, defer or resume such drilling operations. If Lessee does not then resume drilling operations on the leased land within one (1) year from the expiration of the last rental period for which rental has been paid Lessee shall resume the payment of rentals in the same amount and in the same manner as hereinbefore provided, and it is agreed that upon the resumption of the payment of the rentals as herein provided this lease shall continue in force as though there had been no interruption in rental payments.

4. If geothermal steam, geothermal fluids, or by-products thereof are found by Lessee on the leased land in quantities deemed paying by Lessee, Lessee may at any time and from time to time suspend operations under this lease and the production of the substances from the land leased hereunder, and commencing with the first day of the calendar month following the expiration of thirty (30) days from the date of each shut-in or suspension, Lessee shall pay to Lessor annually the amount of the yearly rental set forth in Paragraph Two (2) above as shut-in royalties until such time as the sale of geothermal steam, geothermal fluids, or by-products thereof from the leased land is commenced or resumed. Such shut-in royalties shall be deemed to be advance royalties to be repaid from royalties thereafter payable to Lessor hereunder. During the period that such operations are suspended or shut-in, Lessee's obligations to produce hereunder shall be suspended, and the term of this lease shall be extended during the period of such suspension.

5. Lessee may at any time surrender this lease as to part or all of the leased land by delivering a quitclaim deed describing the lands surrendered or causing a quitclaim deed to be recorded in the appropriate county records. Lessee shall thereby be released of all obligations hereunder as to the part of the leased land so surrendered. In the event of a partial surrender, the annual delay rental above mentioned shall be reduced proportionately.

6. If Lessor owns an interest in the substances recovered hereunder less than the entire and undivided fee estate therein, the royalty and rental herein provided shall be paid to Lessor only in proportion which its ownership bears to the whole and undivided fee; provided however that, if Lessor has no interest in the substances recovered hereunder but has an interest in the leased land, Lessee shall pay Lessor the sum of one-hundred dollars (\$100.00) per acre per year for all land actually occupied or used by Lessee, as rental for the surface thereof.

7. Should any person, firm or corporation having an interest in the above described land not leased to Lessee, or should any one or more of the parties named as Lessors not execute this lease, it shall nevertheless be binding upon the party or parties executing the same.

8. Lessee is hereby authorized to pay any taxes and assessments on behalf of Lessor and may, if it so desires, deduct the amount so paid from royalties or monies due Lessor hereunder.

9. Lessee shall pay all taxes levied against its improvements on the leased land, Lessor shall pay its royalty share and Lessee shall pay the remaining portion of any and all taxes assessed upon geothermal steam, geothermal fluids, or by-products thereof from the leased land on account of actual production of geothermal steam, geothermal fluids, or by-products thereof on or from the leased land, and also all severance, production, license taxes, and other taxes or assessments levied or assessed on account of the production or sale of geothermal steam, geothermal fluids, or by-products thereof on or from the leased land. Lessor shall pay before delinquency all other taxes and assessments on the leased land and improvements.

10. If Lessee is prevented or hindered from drilling or conducting other operations for the purpose of obtaining or restoring production or from producing said substances by fire, flood, storm, act of God, or any cause beyond Lessee's control (including, but not limited to governmental law, order or regulation, labor disputes, war, inability to secure any necessary governmental permits, men, material or transportation, or an adverse claim to Lessor's title); then the performance of any such operations or the production of said substances shall be suspended during the period of such prevention or hindrance. If such suspension occurs during the primary term, the payment of delay rental during such suspension shall be excused and the primary term shall be extended for a period of time equal to the period of such suspension and this lease shall remain in full force and effect during such period of suspension and any such extension of the primary term. Lessee may commence or resume the payment or tender of rentals in accordance with Paragraph Two (2) hereof, after the period of suspension, by paying or tendering within sixty (60) days after the period of suspension the proportionate part of the rental for the rental year remaining after such period of suspension. If such suspension occurs after the primary term, this lease shall remain in full force and effect during such suspension and for a reasonable time thereafter provided that within such time following the period of suspension Lessee diligently commences or resumes operations or the production of said substances. Lessee's obligation to pay royalty on actual production shall never be suspended under this Paragraph. Whenever Lessee would otherwise be required to surrender any of said land as an alternative to the performance so suspended, then so long as such performance is suspended by this Paragraph Lessee shall not be required to surrender any portion of said land.

If the permission or approval of any governmental agency is necessary before drilling operations may be commenced on said land, then if such permission or approval has been applied for at least thirty (30) days prior to the date upon which such operations must be commenced under the terms hereof, the obligation to commence such operations shall be suspended until thirty (30) days after the governmental permit is granted or approval given, or if such permit or approval is denied initially, then so long as Lessee in good faith appeals from such denial or conducts further proceedings in an attempt to secure such permit or approval and thirty (30) days thereafter.

11. In case of default in performance by Lessee of any of the terms, covenants or conditions contained herein and the failure to commence to remedy the same within ninety (90) days after receipt of written notice so to do specifying the particulars in which it is claimed Lessee is in default and thereafter to continue such remedying with reasonable diligence to completion, then at the option of Lessor all rights of Lessee under this lease shall forthwith terminate. There shall be saved and excepted from any lease termination hereunder as a result of default or a result of any partial release or quitclaim as provided in Paragraph Five (5) hereof:

(a) each and any well then capable of producing in paying quantities the substances covered by this lease, and in respect to which Lessee shall not be in default, (b) forty (40) acres of land surrounding said well or wells, each said forty (40) acre tract to be selected and located by Lessee, and (c) rights of way and easements, across lands subject to such lease termination, which are necessary for conducting Lessee's operations on or in the vicinity of the lands retained including sites for electric generating units.

12. Lessor reserves all property rights other than those granted herein to Lessee, including the ownership of mercury and mercury vapors, the right to use or lease the leased lands to third persons for any use or purpose not inconsistent with the rights of Lessee herein, and the right to sell or encumber the leased land to third persons who will take subject to the rights of Lessee herein. Nothing in this lease shall prevent Lessor from conveying all or part of the leased land with a reservation of corresponding rights of Lessor hereunder.

13. No well shall be drilled nearer than five-hundred feet (500) to any house or barn now on the leased land, without the written consent of Lessor. Lessee shall have the right at any time to remove all its machinery and fixtures placed on the leased land including the right to draw and remove casing.

14. Lessee agrees to take reasonable steps to prevent its operations from:

- (a) causing or contributing to soil erosion or to the injury of soil-conserving structures on the leased land;
- (b) polluting the waters of reservoirs, springs, streams or water wells on the leased land;
- (c) damaging crops, or pastures, consistent with the purposes of this lease, or
- (d) harming or injuring in any way the crops or livestock owned by Lessor or his tenants and kept or pastured on the leased land, including the erosion and maintenance of fences, gates and cattle guards where necessary for such purposes.

15. Lessee shall not drill or operate water wells or take water in such a way to injure the water wells, ponds or a reservoir of Lessor or interfere with or diminish the supply of water to Lessor or his tenants for domestic, livestock or agricultural use. If Lessee elects to abandon any water well drilled by Lessee on the leased land, Lessor shall have the option of requesting in writing that Lessee turn over such well to Lessor, and at that time Lessor shall pay Lessee for the salvage value of the material and equipment in and on said well. In drilling geothermal wells Lessee shall, upon request, furnish Lessor with any physical data which Lessee may obtain which tends to substantiate the presence of water bearing formations. If Lessee elects to abandon permanently any well drilled for geothermal purposes, which well has become unsuitable in connection with Lessee's further operations hereunder, Lessor shall have the option of requesting, in writing, that Lessee turn over such well to Lessor for conversion to a water well by Lessor. If Lessor so elects, Lessee agrees to plug said well to the bottom of the surface casing according to the requirements of the State of Oregon, in order to prevent contamination of fresh water bearing formations as a result of Lessee's drilling operations.

16. All labor to be performed and material to be furnished in the operations hereunder shall be at sole cost and expense of Lessee, and Lessee shall hold Lessor free and harmless from liability thereunder, and Lessee shall keep the demised premises fully protected against all liens of every character arising from or connected with its operations hereunder.

17. Lessee during the term hereof shall indemnify and save Lessor harmless from and against any and all claims and demands, whether for injuries to persons or loss of life, or damage to property, occurring on the leased land and arising out of the use of the leased land by Lessee, excepting however such claims and demands, whether for injuries to persons or loss of life, or damage to property, caused by acts or omissions of Lessor.

18. Lessee shall pay to the person beneficially interested in the damaged object all damages caused by its operations to the surface of the leased land, growing crops, pasture and improvements on the leased land, or to animals or livestock.

19. Within six (6) months after abandonment of any well, Lessee shall remove all machinery, material and structures used in connection with said well and not used in its other operations, if any, on the leased land, and shall fill in and level off all excavations, pits or other alterations in the surface of the land caused in connection with said well, and generally shall restore the surrounding land and the means of ingress and egress to as good a condition as existed when Lessee commenced operations under this lease, including the replacing or repairing of all fences which Lessee may have removed or damaged.

20. Lessee is hereby granted an easement and right of way for roads, pipelines, electrical transmission lines, and any other uses related to Lessee's use of the leased land and other lands in the vicinity, over the leased land and any other lands now or in the future owned, leased or otherwise controlled by Lessor in the vicinity of the leased land.

21. (A) Lessee shall have the right, from time to time and at any time, to commingle (for purposes of storing, transporting, handling, utilizing, selling or processing) said geothermal steam, geothermal fluids, or by-products thereof, produced or extracted from production from the leased land and lands pooled, unitized or combined therewith, with similar substances produced or extracted from production from other lands or units, and in the event of such commingling, Lessee shall meter, gauge, or measure, according to prevalent industry standards, the production from the leased land, or from the unit or units including the leased land or other units or lands, as applicable, and compute and pay Lessor's royalty attributable to Lessor's land on the basis of such production as so determined or allocated.

(B) Lessee may, at any time or from time to time as a recurring right for drilling, development, or operating purposes, pool, unitize, or combine all or any part of the leased land into a unit with any other land or lands (whether held by Lessee or others), whether or not adjacent or contiguous, which Lessee desires to develop or operate as a unit. Such a unit shall be officially created upon Lessee's filing in the office of the County Recorder a notice of such unitization, describing said unit. Any well (whether or not Lessee's well) commenced, drilled, drilling and/or producing or being capable of producing in any part of such unit shall for all purposes of this lease be deemed a well commenced, drilled, drilling and/or producing on the leased land, and Lessee shall have the same rights and obligations with respect thereto and to drilling and producing operations upon the lands from time to time included within any such unit as Lessee would have if such lands constituted the leased land; provided, however, that notwithstanding this or any other provision or provisions of this lease to the contrary:

(1) production as to which royalty is payable from any such well or wells drilled upon any such unit, whether located upon the leased land or other lands, shall be allocated to the leased land in the proportion that the acreage of the leased land in such unit bears to the total acreage of such unit, and such allocated portion thereof shall for all purposes of this lease be considered as having been produced from the leased land, and the royalty payable under this lease with respect to the leased land included in such unit shall be payable only upon that proportion of such production so allocated thereto, and,

(2) if any taxes of any kind are levied or assessed (other than taxes on the surface and on Lessor's improvements), any portion of which is chargeable to Lessor under provisions of this lease, the share of such taxes to be borne by Lessor as provided in this lease, shall be in proportion to the share of the production from such unit allocated to the leased land.



Allocation as aforesaid of production from any such unit, whether to the leased land or in like manner to other lands therein, shall continue notwithstanding any termination, either in whole or in part (by surrender, forfeiture or otherwise), of this or any other lease covering lands in such unit until such time as the owner of such lands so terminated shall enter into a new agreement to drill for or produce or shall drill for or produce or permit or cause the drilling for or producing of any geothermal steam, geothermal fluids, or by-products thereof from any part of such lands, whereupon all such lands subject to said new agreement or drilling or producing operations formerly included in such unit and as to which the lease covering the same shall have terminated shall be excluded in determining the production to be allocated to the respective lands in such unit; additionally, in the event of the failure of lessor's or any other owner's title as to any portion of the land included in any such unit, such portion of such land shall likewise be excluded in allocating production from such unit; provided, however, Lessee shall not be held to account for any production allocated to any lands excluded from any such operating unit unless and until Lessee has actual knowledge of the aforesaid circumstances requiring such exclusion. Any exclusion shall be deemed effective the first day of the month next following the date upon which such exclusion becomes finally established.

(C) At such time as Lessee shall have drilled and completed a well or wells on the leased land or land pooled, unitized or combined therewith which, in Lessee's opinion, indicates a sufficient power potential or the existence of extractable geothermal steam, geothermal fluids, or by-products thereof in commercial quantities, Lessee may at any time and from time to time thereafter construct, install, repair, maintain, replace and utilize on the leased land, facilities for the commercial sale or use of hot water, geothermal steam, or thermal energy produced on the leased land or lands in the vicinity thereof or pooled, unitized or combined therewith, for the extraction of by-products thereof, and/or for development of electric power from the use of geothermal steam for thermal energy, or for agricultural or other commercial purposes, and at such time Lessee, if it so elects, may purchase from Lessor, at the then fair market value, an easement for surface use only which Lessee shall in good faith need for such facilities, the duration of which shall extend for the life of such facilities. Upon the expiration thereof, such easement shall terminate and Lessee shall furnish Lessor with a quitclaim deed divesting itself of all interest in any such easement.

22. Lessor may give any notice or deliver any document hereunder to Lessee by mailing the same by registered mail addressed to Lessee at 601 California Street, San Francisco, California 94108, or by delivering the same in person to any officer of Lessee, Lessee may give any notice or deliver any document hereunder to Lessor by mailing the same by registered mail

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addressed to Lessor at: Route 1, Box 692, Klamath Falls, Oregon 97601

or by delivering the same to Lessor in person. For the purposes of this Paragraph, either party may change its address by written notice to the other. In case of any notice or document delivered by registered mail, the same shall be deemed delivered when deposited in any United States Post Office, properly addressed as herein provided, with postage fully prepaid.

23. This lease and all its terms, conditions and stipulations shall extend to and be binding upon the heirs, successors and assigns of lessor and lessee.

IN WITNESS WHEREOF, the parties hereto have executed this agreement.

Return to  
Natomas Company  
601 California Street  
San Francisco Ca  
94108

LESSEE

LESSOR

NATOMAS COMPANY

BY

Raymond E. Dillon

FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS, HALL, LAW, PUBL. CO., PORTLAND, ORE.

STATE OF OREGON,

County of Klamath

ss.

BE IT REMEMBERED, That on this 27th day of February, 1975, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Raymond E. Dillon and Barbara J. Dillon known to me to be the identical individual(s) described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon.

My Commission expires 3-28-76

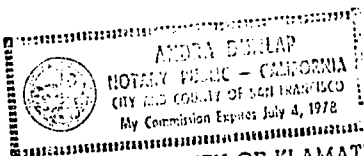
STATE OF CALIFORNIA

ss.

City and County of San Francisco

ON March 3rd, 1975, before me, the undersigned, a Notary Public in and for the said State, personally appeared John C. Roberts known to me to be the Vice President, of NATOMAS COMPANY the Corporation that executed the within Instrument, known to me to be the person who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal



Andrea Dunlap  
Notary Public in and for said State

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of TRANSAMERICA TITLE INS. CO.  
this 12th day of MARCH A. D., 1975 at 11:00 o'clock A. M., and duly recorded in  
Vol. M 75 of DEEDS on Page 2841

FEE \$ 14.00

WM. D. MILNE, County Clerk

Deputy