

- b. LESSEE has satisfied all conditions of the lease precedent to assignment; and
- c. STATE's standard form, Assignment of Lease, is completed by both LESSEE and Assignee.

Subject to approval of STATE and upon request, LESSEE will obtain release from liability after assignment.

VII
RIGHT-OF-WAY

The interest of LESSEE under this lease shall at all times be subject to STATE granting rights-of-way in and over the said lands, or any part thereof, for railroad, telegraph and telephone poles, electric poles, oil pipelines, water pipes, irrigation or other water canals and ditches, and to lease all or part thereof for discovery, development, and production of petroleum, mineral oil, or minerals of any nature whatsoever, provided such right-of-way or lease does not unreasonably interfere with the purpose of this lease.

VIII
DEFAULT

The following shall be events of default:

- a. Delinquency in the payment of rent in excess of 60 days beyond the rental due date unless specifically extended in writing by STATE. Within 40 days after the rental due date, STATE shall notify LESSEE by registered or certified mail of the pending default. Failure of LESSEE to receive or to acknowledge receipt of notice shall not invalidate the default.
- b. Failure of LESSEE to comply with any term or condition or fulfill any obligation of the lease (other than the payment of rent or other charges) within 10 days after written notice by STATE specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be completely remedied within the 10-day period, this provision shall be complied with if LESSEE begins correction of the default within the 10-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.
- c. Use by LESSEE of the leased lands for purposes other than those authorized by the terms of this lease.
- d. Failure to remove any lien or encumbrance placed upon the leased lands.

IX
TERMINATION

In the event of default by LESSEE, the lease may be unilaterally terminated at the option of STATE by notice in writing to LESSEE. The

notice may be included in a notice of failure of compliance given under paragraph VIII. STATE will consent to termination of all or part of the lease:

- a. If intended operations under lease are halted by another governmental agency; or
- b. Upon application of LESSEE, providing LESSEE has satisfied all conditions of the lease precedent to date of termination and, in addition, upon payment of one-quarter, or the equivalent thereof, of the total sum of future rentals as consideration for said termination; or
- c. Upon mutual consent and such termination would be in the best interest of both the people and natural resources of STATE; or
- d. If a request to terminate the same made by either the Department of Environmental Quality due to failure to maintain water quality standards, or by the STATE Department of Fish and Wildlife due to a claim of damage to wildlife and fishery habitats caused by the operations, is approved by the Division of State Lands and is proximately related to a material and quantifiable damage to the same; or
- e. If LESSEE harvests less than 2,000 tons of algae within the first four years, or less than 1,000 tons of algae annually thereafter.

Upon partial termination of this lease, STATE shall make a redetermination of the lands remaining subject to lease, and redetermine the rent therefor accordingly.

X
REMEDIES

In the event of unilateral termination, STATE may elect to pursue whatever legal, equitable, or other remedies are available to it. In case of termination, or at the expiration of the term of this lease, STATE may re-enter, take possession of STATE lands, and remove any persons or property by legal action.

In the event STATE brings suit to compel performance of any term or condition of this lease, or to recover for breach of such term or condition, the prevailing party shall recover, in addition to costs and disbursements, such sums as the court may adjudge reasonable as attorney fees, including any attorney fees and costs on appeal therefrom.

XI
MAILING ADDRESS

Any notice required or permitted under this lease shall be given when actually delivered or when deposited in the United States mail as registered or certified mail addressed as follows:

To STATE: Division of State Lands
1445 State Street
Salem, OR 97310

1085

To LESSEE: APG Co.
635 Main Street
Klamath Falls, OR 97601

or to such other address as may be specified from time to time by either STATE or LESSEE in writing.

XII
TAXES AND LIENS

LESSEE shall pay all taxes or assessments levied upon the leased land during the term of the lease. LESSEE shall not cause any liens or encumbrances to be imposed upon the leased land and if any lien or encumbrance is imposed upon such land, LESSEE shall proceed immediately to remove said lien or encumbrance.

XIII
INDEMNIFICATION

LESSEE shall be responsible and liable for all injuries to persons, or property, resulting from any negligence or otherwise tortious acts or omissions of LESSEE, its servants, or agents. LESSEE shall indemnify STATE and hold it harmless against any and all claims, demands, lawsuits, injuries, damages, and costs, including litigation costs, which STATE may sustain by reason of any such acts or omissions.

XIV
EXPIRATION

Upon expiration of the lease term or earlier termination on account of default, or mutual consent, LESSEE shall surrender the leased lands in substantially their original condition. STATE may require LESSEE, within a reasonable time after expiration or termination, to restore the leased lands to substantially their original condition.

XV
HOLDOVER

If LESSEE does not vacate the lease premises at the time required, STATE shall have the option to treat LESSEE as a lessee from month to month, subject to all the provisions of this lease, except the provision for TERM. In the event of a holdover and STATE exercises its option to treat the holdover as a month-to-month tenancy, the monthly rental fee shall be one-twelfth of the yearly rental fee.

IN WITNESS WHEREOF, the said parties have on this 22nd day of August, 1977, in pursuance of due authority given, caused this instrument to be executed in duplicate.

STATE OF OREGON (Lessor)
Division of State Lands

By

William S. Cox
William S. Cox, Director

LESSEE: APG CO.

Sydney K. Bracemore
Jon Bracemore

EXHIBIT "A"

That portion of the following described real property in Klamath Falls, Oregon, lying west of a line perpendicular to a point on the south boundary thereof and 100 feet from the west boundary thereof:

Beginning at a point marked by a 3/4" iron pipe at the intersection of the westerly line of California Street and the southerly line of the West Side Highway (State Secondary Highway No. 270), said point being South 31° 25' East, a distance of 491.4+ feet, from the intersection of the westerly line of California Street and the southerly line of Front Street; thence South 65° 58' West along the southerly line of said West Side Highway to the shore line of Upper Klamath Lake; thence Southeasterly along the shore line of Upper Klamath Lake to the intersection with the North line of the U.S.R.S. canal right of way; thence Northeasterly along the North line of the U.S.R.S. canal right of way to the intersection with the westerly line of California Street; thence North 31° 25' West along the westerly line of California Street, a distance of 114.1+ feet, to the point of beginning. Together with the right of ingress and egress thereto and therefrom over the existing roadway.

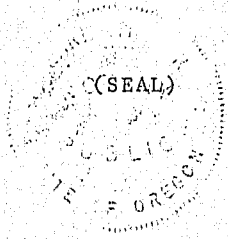
1088

STATE OF OREGON)
) ss.
County of Klamath)

August 22, 1977

Personally appeared Sydney K. Giacomini and J. Anthony Giacomini who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary/treasurer of A P G Co., a corporation, 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 each of them acknowledged said instrument to be its voluntary act and deed.

Before me:



*Return to
Giacomini Jones & Zamsky
635 Main
K. Falls, Or.*

Earl Miller
Notary Public for Oregon
My Commission expires: *December 30, 1979*

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record ~~on request~~ _____
his 17th day of January A. D. 19 78 at 4:50 o'clock P. M., and
fully recorded in Vol. M78, of Deeds on Page 1081

Wm D. MILNE, County Clerk
Bernetha J. Ketch

Fee \$24.00