

73313

K-31703

Vol. <sup>17</sup>79 Page 20881

ASSIGNMENT OF LEASES

August 31, 1979

FOR VALUE RECEIVED, MODOC LUMBER CO., an Oregon corporation (Modoc), hereby assigns to RUTH H. TEASDEL (Teasdel), certain Leases described as follows:

1. Lease No. 164670, dated October 16, 1970, between Southern Pacific Transportation Company, Lessor, and Klamath Ice & Storage Company, Lessee, which lease was assigned to Klamath Cold Storage, Division of Modoc Lumber Co. in April, 1974. A copy of this lease is attached as Exhibit "A".

2. Longitudinal Water Line Encroachment Lease No. 181407, dated August 16, 1976, between Southern Pacific Transportation Company, Lessor, and Klamath Cold Storage Company. A copy of this lease is attached as Exhibit "B".

3. Lease No. 115871, dated July 1, 1958, between Central Pacific Railway Company and its Lessee, Southern Pacific Transportation Company, Lessor, and Klamath Ice & Storage Company, Lessee, which was assigned to Klamath Cold Storage Division of Modoc Lumber Co. in April, 1974. A copy of this lease is attached as Exhibit "C".

Teasdel hereby agrees to assume the obligations of Modoc under the Leases for the balance of their terms and to perform all covenants contained therein.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

MODOC LUMBER CO.

by: Thomas J. Shaw  
Thomas J. Shaw, President

Ruth H. Teasdel  
Ruth H. Teasdel

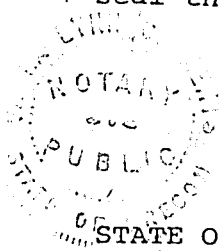
by: George M.M. Burton  
George M.M. Burton, Secretary.

20882

STATE OF OREGON       )  
                               : ss.  
 County of Klamath    )

On this 31 day of August, 1979, before me,  
 appeared within named THOMAS J. SHAW and GEORGE M. M. BURTON,  
 who, being duly sworn, did say that they are the President and  
 Secretary of Modoc Lumber Co. and that the within was signed in  
 behalf of said corporation by authority of its board of directors;  
 and acknowledged said instrument to be its voluntary act and deed.

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



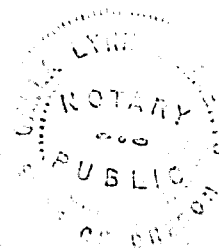
Carla Lynn Clement  
 NOTARY PUBLIC FOR OREGON

My Commission Expires: 3/16/82

STATE OF OREGON       )  
                               : ss.  
 County of Klamath    )

On this 31 day of August, 1979, before me,  
 appeared the within named RUTH H. TEASDEL, who is known to me  
 to be the identical individual described in and who executed the  
 within instrument, and acknowledged to me that she executed the  
 same freely and voluntarily.

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



Carla Lynn Clement  
 NOTARY PUBLIC FOR OREGON

My Commission Expires: 3/16/82

INDUSTRIAL LEASE

164670

20883

This Lease, made and entered into this 16<sup>th</sup> day of October, 1976  
by and between SEASIDE PACIFIC TRANSPORTATION COMPANY  
a corporation, herein called "Railroad," and ELIZABETH FALLS & TONGUE COMPANY  
addressed P.O. Box 1210, Astoria Falls, Oregon  
herein called "Lessee."

Witnesseth: That Railroad hereby leases to Lessee the premises, of Railroad at or near  
Astoria Falls Station, Elizabet County, State of Oregon  
shown upon the plat hereto attached, L 1050 A  
for the term of one year from the 1<sup>st</sup> day of November, 1976  
upon the following terms and conditions:

1. Railroad reserves for itself, its successors, assigns and licensees, the right to construct, maintain  
and operate any existing tracks and existing, new and/or additional pipe, telegraph, telephone and power  
transmission lines upon, over and beneath the leased premises.  
Lessee hereby acknowledges the title of Railroad to the leased premises, and agrees never to assail or  
contest said title.

2. Lessee agrees to pay rental at the rate of  
forty eight (48) Dollars (\$48.00)  
per month payable monthly in advance. If such rental is payable  
on a monthly basis and the effective date hereof is other than the first day of the month, then the rental will  
be prorated from the effective date to the first day of the following full calendar month.

Any privilege, sales, gross income or other tax (not including income tax) imposed upon the rentals  
herein provided to be paid by the Lessee, or upon the Railroad in an amount measured by the rentals re-  
ceived by Railroad, shall be paid by the Lessee, in addition to the amounts set forth herein, whether such  
imposition of tax be by The United States of America, the state in which the leased premises are located, or  
any subdivision or municipality thereof.

3. Said premises shall be used by Lessee solely and exclusively for  
construction of a loading dock

Lessee agrees to comply with all applicable laws and regulations with respect to the use of the leased  
premises.

If the Lessee does not, within ninety (90) days, commence the use of the leased premises for the pur-  
poses herein mentioned, or if the Lessee discontinues such use for a period of ninety (90) days, the Rail-  
road may at its option terminate this lease by giving fifteen (15) days' notice in writing to the Lessee, in  
which event the provisions of Section 4 hereof, relating to refund of rental, shall apply.

4. Lessee agrees to keep the leased premises and all buildings and structures thereon free from rub-  
bish and in a neat and safe condition and satisfactory to Railroad. Lessee shall maintain, at Lessee's sole  
cost and expense, in good condition and repair, satisfactory to Railroad, all buildings and structures upon  
said leased premises, except those owned by the Railroad. The leased premises and buildings and struc-  
tures thereon shall not be used for displaying signs and notices other than those connected with the busi-  
ness of Lessee contemplated by this lease. Such notices and signs shall be neat and properly maintained.  
Railroad shall have the right to enter the leased premises at reasonable times to inspect the same.

5. Lessee agrees to pay, before they become delinquent, all taxes and assessments against the leased  
premises, or which might become a lien thereon, by reason of any buildings, structures or other property,  
real or personal, on the leased premises (except those owned by Railroad), or by reason of Lessee's activi-  
ties. Railroad may at its option pay such taxes or assessments, and such payments will be repaid by Lessee  
on demand.

6. Subject to any lawful charges therefor, Lessee may receive service on \_\_\_\_\_ feet of any Rail-  
road-owned track upon or immediately adjacent to the leased premises, provided that such use will not inter-  
fere with use of the track for railroad purposes. Railroad shall have the right to serve other patrons upon  
such track or extensions thereof and incident thereto may temporarily remove cars consigned to Lessee on  
said track without liability to Lessee. Railroad may at any time, in its sole discretion, terminate service to  
Lessee on such Railroad-owned track. Lessee shall secure the written consent of the owner before request-  
ing service upon any private industrial track.

In the event Lessee desires to use said track for the loading, unloading or storage of gasoline or other  
flammable liquids with flash point below 60° Fahrenheit, liquefied petroleum gases, or anhydrous ammonia,  
Lessee shall secure written permission of Railroad prior to using said track for any of these purposes. Les-  
see agrees to comply with Railroad's rules governing. A copy of said rules will be furnished by Railroad to  
Lessee upon request of Lessee.

Exhibit "A" to ASSIGNMENT OF LEASES

Lessee agrees to comply with the following regulations set forth on the attached Exhibit "A", which governs clearances and other matters required by statute or local order. Lessee shall provide such proper clearances. A minimum overhead clearance of twenty five (25) feet above type of rails shall be provided for each above said track and for a horizontal clearance of at least eight (8) feet from the downstroke of the track. All doors, windows or gates of any building or enclosure shall be of the sliding type or shall, when closed, be swung away from the track when such building or enclosure is so located that said doors, windows or gates if opened toward the track would, when opened, be at clearances in violation of the clearances specified on said Exhibit "A". No pipe, conduit, structure, opening or excavation of any kind whatsoever shall be made or placed by Lessee beneath any track and no gate or other obstruction shall be constructed or maintained across said track nor shall cars be moved by mechanical means on said track without prior written approval from Railroad. Lessee shall at all times keep the pathway for use thereon, as shown on Exhibit "A", and the area between the rails, together with the flange ways thereof, free and clear of debris and/or obstructions of any kind or nature and whether due to the operations of Lessee or Railroad or both or to the loading or unloading of cars on said track. No gunpowder, dynamite, gasoline, or other explosive material shall be piled or stored by Lessee upon the leased premises within one hundred (100) feet from the nearest track.

The terms of this Section 6 shall not be deemed waived by either party except by written agreement.

7. In the event Lessee shall not promptly correct any default by Lessee hereunder after receipt of notice of such default from Railroad, Railroad shall have the right to terminate this lease forthwith and to retake possession of the leased premises. Waiver of any default shall not be construed as a waiver of a subsequent or continuing default. Termination of this lease shall not affect any liability by reason of any act, default or occurrence prior to such termination.

8. Either party hereto may terminate this lease upon thirty (30) days' written notice to the other party. In the event of such termination by Railroad, the proportion of rent paid in advance allocable to any period after the termination date shall be refunded to Lessee.

9. Upon the expiration or termination of this lease, or any extension or renewal thereof, Lessee, without further notice, shall deliver up to Railroad the possession of the leased premises. Lessee, if not in default hereunder, shall be entitled, at any time prior to such expiration or termination, to remove from the leased premises any buildings or structures wholly owned by Lessee. Lessee shall restore said leased premises to the condition in which they existed at the time Lessee took possession. Upon the failure or refusal of Lessee to remove from the leased premises all buildings, structures and all personal property owned by Lessee, prior to the expiration or termination of this lease, said buildings, structures and personal property shall thereupon, at the option of Railroad, become the sole property of Railroad, or if Railroad so elects it may remove from the leased premises any buildings, structures and other personal property owned by Lessee, and Railroad may also restore the leased premises to substantially the condition in which they existed at the time Lessee took possession, all at the expense of Lessee, which expense Lessee agrees to pay Railroad upon demand. In the event of such failure or refusal of Lessee to surrender possession of said leased premises, Railroad shall have the right to re-enter upon said leased premises and remove Lessee, or any person, firm or corporation claiming by, through or under Lessee, therefrom.

10. Lessee shall not construct, reconstruct or alter structures of any character upon the leased premises without the prior written consent of Railroad. Lessee shall not commence any repairs (except emergency repairs) until fifteen (15) days after written notice to Railroad.

Lessee agrees not to install or extend any electrical wires in any Railroad-owned improvements on the leased premises without the prior written consent of Railroad.

Lessee agrees to arrange and pay for all water, gas, electricity and other utilities used by Lessee on the leased premises direct with the company providing such service.

11. Lessee will fully pay for all materials joined or affixed to the leased premises, and pay in full all persons who perform labor upon the leased premises and will not suffer any mechanics' or materialmen's liens of any kind to be enforced against the leased premises for any work done, or materials furnished, at the Lessee's instance or request. If any such liens are filed thereon, Lessee agrees to remove the same at Lessee's own cost and expense and to pay any judgment which may be entered thereon or thereunder. Should the Lessee fail, neglect or refuse so to do, Railroad shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein, and the Lessee shall be liable to the Railroad for all cost, damages, and reasonable attorney fees, and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor. Railroad may post and maintain upon the leased premises notices of non-responsibility as provided by law.

12. In case the leased premises or any part thereof are in either the State of Arizona or Utah, Lessee will give Railroad and the lessor of Railroad, before allowing any construction, alteration or repair to be done upon the leased premises, a bond satisfactory in form and to be issued by some surety company to be approved by Railroad in a sum equal to the full contract price of such construction, alteration or repair, conditioned that the Lessee shall pay or cause to be paid all contractors, sub-contractors, laborers, operatives and other persons who may labor or furnish labor, materials or tools in the performance of such construction, alteration or repair.

13. With respect to any liability for loss, damage, injury or death arising from or incident to the use of the leased premises, each party agrees that it will assume and indemnify and hold harmless the other party against all liability, cost and expense caused by its actions or omissions (or the actions or omissions of its agents, contractors, employees or invitees) or by defective property in its possession, care, custody or control. In the event of any combination of such factors involving both parties, each shall assume and will indemnify and hold harmless the other party against all liability, cost and expense for loss of or damage to property in its possession, care, custody or control, and for injury or death of its agents, contractors, employees or invitees, and any liability to third parties shall be equally divided between the parties hereto. For the purpose of this Section 13, any violation by Lessee of the provisions of Section 6 hereof shall be deemed the sole cause of any loss, damage, injury or death arising therefrom. The provisions of this Section 13 are solely for the benefit of the parties hereto and shall not give rise to a claim or cause of action by or affect the liability of any other person.

The above indemnification shall include the successors, assigns and affiliated companies of Railroad and any other railroad company operating upon Railroad's tracks.

Exhibit "A" to ASSIGNMENT OF LEASES



in addition to the amount of damages and costs.

15. In case Lessee shall be (or by Railroad) be lawfully deprived of the possession of the premises or any part thereof, Lessee shall notify Railroad in writing, setting forth in full the circumstances in relation thereto, whereupon Railroad may, at its option, either install Lessee in possession of the leased premises, or terminate this lease and refund to Lessee the pro rata amount of the rental for the unexpired term of the lease after the receipt of such notice, whereupon no claim for damages of whatsoever kind or character incurred by Lessee by reason of such dispossession shall be chargeable against Railroad.

16. In case Lessee holds over the term of this lease, with the consent of Railroad, such holding over shall be deemed a tenancy from month to month, and upon the same terms and conditions as herein stated.

17. Any notice to be given by Railroad to Lessee hereunder shall be deemed to be properly served if delivered to Lessee, or if deposited in the post office, postpaid, addressed to Lessee at the leased premises or to last known address.

18. Time and specific performance are each of the essence of this lease.

20885

THIS LEASE shall inure to the benefit of and be binding upon the heirs, administrators, executors, successors and assigns of the parties hereto, but shall not be assigned or subleased by Lessee without the prior written consent of Railroad.

IN WITNESS WHEREOF, the parties hereto have executed this lease in duplicate the day and year first above written.

SOUTHERN PACIFIC  
TRANSPORTATION COMPANY.

By W. A. W. KILBORN  
Superintendent

WITNESSED BY:

KLAMATH ICE & REFRIGERATION COMPANY  
(Lessee)

By Ross Rayland  
(Title)  
Mgr

NOTE - If an incorporated company, lease should be executed by an authorized officer thereof and his title indicated, otherwise signatures should be witnessed by an employee of Railroad, if practicable, if not, by a disinterested party.

Exhibit "A" to ASSIGNMENT OF LEASES

20886

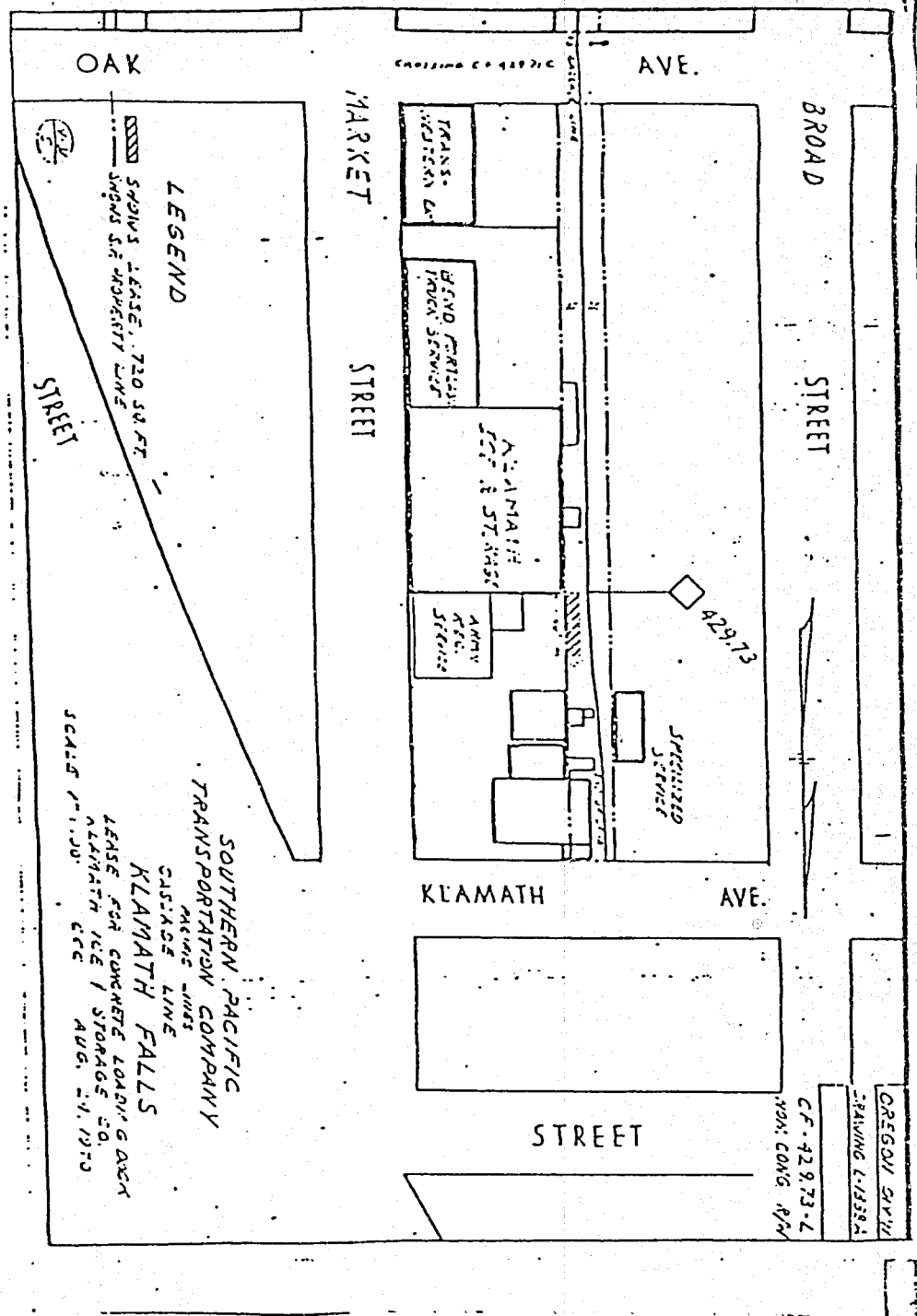


Exhibit "A" to ASSIGNMENT OF LEASES

John Hill Post C-429, 4-L-N Lease 8/1407  
This Agreement, made this 16th day of August, 1976,  
and between SOUTHERN PACIFIC TRANSPORTATION COMPANY  
hereinafter termed "Railroad," and KLAMATH COLD STORAGE COMPANY,  
Post Office Box 1210, 661 South Spring Street, Klamath Falls,  
Oregon 97601,

herein termed "Licensee."

WITNESSETH THAT:

Railroad, in consideration of the sum of Two Hundred Fifty (\$250) Dollars,  
to be paid by Licensee to Railroad, and in further consideration of the faithful performance by Licensee of all the  
covenants and agreements herein contained, hereby permits Licensee to construct, reconstruct, maintain and  
operate beneath Railroad's property, at a depth specified by Railroad,  
a 3/4-inch iron water pipeline,

herein termed "structure," at or near Klamath Falls  
County of Klamath, and State of Oregon Station,  
in the location shown on the print attached.  
(L-3495-A dated September 26, 1975)

This agreement is made upon the following terms and conditions:

1. Licensee agrees to keep Railroad's premises in a good and safe condition, so far as affected by Licensee's use, free from waste all to the satisfaction of Railroad, failing which, Railroad may perform the necessary work at the expense of Licensee, which expense Licensee agrees to pay to Railroad upon demand. All work upon, or in connection with, said structure shall be done to the satisfaction of Railroad at such times and in such manner as not to interfere in any way whatsoever with the operations of Railroad. In the event Railroad shall at any time or times require the removal, reconstruction, alteration or changes in the location of said structure, or shall at any time or times construct an additional track or tracks, then Licensee agrees at Licensee's own sole cost and expense, upon receiving written notice from Railroad so to do, to forthwith construct and maintain an additional structure or extend or change said structure or immediately remove, reconstruct, alter or make changes in the location of said structure as may be requested by Railroad and in a manner satisfactory to Railroad. Licensee shall give Railroad five (5) days' written notice prior to the commencement of any work of construction or reconstruction.
2. Licensee shall not assign or transfer this agreement, in whole or in part, or permit any other person to use the right or privilege hereby given, without the prior written consent of Railroad.
3. Licensee agrees to reimburse Railroad the cost to Railroad of furnishing any necessary watchmen, flagmen or inspectors and for performing any work, including installing and removing any necessary framework beneath the tracks of Railroad, during the installation, maintenance or removal of said structure.
4. In the event Licensee shall discontinue the use of said structure or shall abandon the same, all rights hereby given shall forthwith cease and determine.

Should Licensee fail to keep, observe and perform any covenant or condition on Licensee's part herein contained, all rights hereby given shall, at the option of Railroad, forthwith cease and determine. Upon termination of the privileges contained herein or upon termination of this agreement, as hereinafter provided, Licensee shall, at Licensee's own cost and expense, immediately remove said structure and restore said premises as nearly as possible to the same state and condition they were in prior to the construction of said structure, failing which, such removal and restoration may be performed by Railroad at the expense of Licensee, which expense Licensee agrees to pay to Railroad on demand.

Exhibit "B" to ASSIGNMENT OF LEASES

26888

... or damage to property and for injury to or deaths of persons (including but not limited to the property and employees of each of the parties hereto) when arising or resulting from:

- (a) the use of said premises by Licensee, its agents, employees or invitees, or
- (b) the construction, presence, maintenance, use or removal of said structure, or
- (c) breach of the contract by Licensee,

whether or not caused or contributed to by any act or omission of Railroad.

The term "Railroad" as used in this Section 5 shall include the lessor, successors, assigns and affiliated companies of Railroad, and any other railroad company operating upon Railroad's tracks.

6. No work on Railroad premises shall be commenced by any contractor for Licensee until such contractor has entered into Railroad's standard Contractor's Agreement covering such work.

7. Licensee will fully pay for all materials joined or affixed to said premises, and pay in full all persons who perform labor upon said premises, and will not permit or suffer any mechanics' liens or materialmen's liens of any kind or nature to be enforced against said premises for any work done or materials furnished thereon at Licensee's instance or request.

8. In case Railroad shall successfully bring suit to compel performance of, or to recover for breach of, any covenant, agreement or condition herein written, Licensee shall and will pay to Railroad reasonable attorney fees in addition to the amount of judgment and costs.

9. This agreement may be terminated by either party hereto by giving thirty (30) days' notice in writing to that effect.

10. Except as otherwise provided herein, the terms and conditions of this agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

11. Project markers in form and size satisfactory to Railroad identifying the facility and its owner will be installed and constantly maintained by and at the expense of licensee at Railroad property lines or such locations as Railroad shall approve. Such markers shall be relocated or removed upon request of Railroad without expense to Railroad.

Absence of markers does not constitute a warranty by Railroad of no subsurface installations.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in duplicate the day and year first herein written.

SOUTHERN PACIFIC TRANSPORTATION COMPANY,

WITNESSED BY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed J. W. Ferguson  
By \_\_\_\_\_ (Title)  
KLAMATH COLD STORAGE COMPANY,  
(See Note) (Licensee)  
By Rosa England  
(Title) Mgr

NOTE: If an instrument in part, agreement should be executed by an authorized officer thereof and the title hereof, after the signature of said officer, should be in the name of Railroad, if part of the same, by a duly authorized party.



[illegible]

to pay to Railroad on demand.

Exhibit "B" to ASSIGNMENT OF LEASES

# Southern Pacific Transportation Company

Passenger Station, Klamath Falls, Oregon 97601

P. O. Box 668 Phone 882-4475

August 31, 1979

20890

DSM-1660-Klamath Falls  
(Klamath Cold Storage)

L. M. MONTEZ  
VICE PRESIDENT

B. M. Henderson, Attorney at Law  
Henderson & Molatore, Attorneys  
426 Main Street  
Klamath Falls, Oregon 97601

Dear Blair:

Subject: Lease Audit L-115871, A/C Klamath Cold Storage--  
Division of Modoc Lumber Company, Klamath Falls,  
Oregon

This has reference to phone conversation this morning with Steve  
Henderson and myself relating to subject document.

Lease Audit L-115871 was effective July 1, 1958 for a period of  
fifteen years and covers the maintenance and operation of warehouse,  
storage of ice and perishable food supplies, and maintenance of access  
roadway located thereon. Since 1973, lease has been on a month-to-  
month basis.

Rental on involved document was last revised July 1, 1979 to an  
annual basis of \$472.00 for land area, plus \$4.00 per track foot  
maintenance charge on 50 feet of Railroad-owned trackage, for a total  
of \$572.00.

As previously advised, this Department has objections to  
assignment of subject lease to Ms. Ruth H. Teasdel, and upon written  
advice of how new documentation is to read, we will handle for prepar-  
ation of same. Effective date to be included in new agreement will  
also be required.

Also, upon written application, we will be pleased to submit to  
Management for formal approval a request for a five, ten, or fifteen  
year period of lease on L-115871. Such a request should outline in  
detail justification for same; i.e., amount of investment of improve-  
ments located on our property, amount of any expenditure anticipated,  
or such other pertinent details as you feel may be necessary.

Exhibit "C" - Assignment of Leases

20891

B. M. Henderson, Attorney at Law

2.

August 31, 1979

Trust this information will clarify subjects covered this morning, and if I can be of any additional assistance, please let me know.

Yours truly,

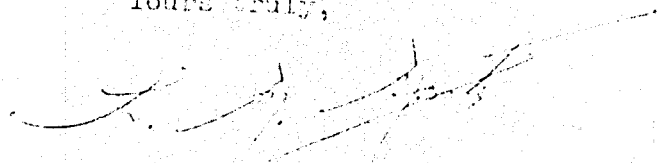
  
cc: S. Y. Orcutt, Attorney at Law  
1763 Washburn Way  
Klamath Falls, Oregon 97601

Exhibit "C" - Assignment of Leases

115871

THIS SECOND SUPPLEMENTAL AGREEMENT, dated this 2 day  
of July, 1969, by and between SOUTHERN PACIFIC  
COMPANY, a corporation, herein called "Railroad", and KLAMATH ICE  
& STORAGE COMPANY, a partnership composed of A. M. Collier, Ross  
Ragland, Frank E. Fleet, Lloyd Porter, Carolyn Collier Larson,  
Phyllis Collier Kerns, Charles L. Moore, Patricia Fleet Whitney,  
Gilbert W. Fleet, and Marie Collier Ragland, herein jointly and  
severally called "Lessee";

PICITALE:

The parties hereto, or their respective  
predecessors in interest entered into that certain  
lease dated July 1, 1958, as amended by an agreement  
dated December 20, 1963, relating to the leasing of  
Railroad premises for the term of fifteen (15) years  
at Klamath Falls, Oregon, for the purposes specified  
in Section 3 thereof.

The parties desire to amend said lease as herein-  
after provided.

AGREEMENT:

1. Rental for Railroad's premises, subject of said recited  
lease, as amended, is hereby increased as follows:

(a) effective July 1, 1969, to June 30, 1970. — \$300 per  
annum, payable annually in advance, and

(b) effective July 1, 1970, to June 30, 1973 — \$330 per  
annum, payable annually in advance.

2. Except as herein otherwise provided, all terms and condi-  
tions of said recited lease, as amended, shall continue in full  
force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this second  
supplemental agreement to be executed in duplicate the day and year  
first herein written.

KLAMATH ICE & STORAGE CO.

By Frank Ragland  
Managing Partner

By Phyllis Collier Kerns  
Active Partner

By Charles L. Moore  
Active Partner

Co-Partners  
Lloyd Porter  
Carolyn Collier Larson  
Phyllis Collier Kerns  
Charles L. Moore  
Patricia Fleet Whitney

SOUTHERN PACIFIC COMPANY

By V. A. Wolfe Mgr., Real Estate Dept.  
(Title)

Gilbert W. Fleet  
Frank E. Fleet  
Marie Collier Ragland  
By Marie Collier Ragland  
Managing Partner



LEASE

AUDIT I.O. 115871

20893

THIS SUPPLEMENTAL AGREEMENT, made and entered this 20<sup>th</sup> day of December, 1963, by and between SOUTHERN PACIFIC COMPANY, a corporation, herein called "Railroad" and the Klamath Ice & Storage Company, a partnership composed of A. M. Collier, E. M. Igel, Ross Ragland, Carolyn Collier Larson, Phyllis Collier Kerns, Charles L. Moore, Earl T. Shophord, Patricia Fleet Whitney, Gilbert W. Fleet and Frank E. Fleet, herein called "Lessee";

#### RECITALS

Railroad, or predecessor in interest, and Lessee, entered into that certain fifteen (15) year lease dated July 1, 1958, whereby Railroad, or its predecessor in interest, leased to Lessee certain premises located at Klamath Falls, in Klamath County, Oregon, as shown upon the print attached thereto and as more particularly described therein, for the purposes specified in Section 3 thereof.

The parties desire to amend said lease to provide for a reduction in the area of the leased premises and to revise the rental payment as hereinafter provided.

#### AGREEMENT

1. Effective as of the first day of July, 1963, premises subject to the above recited lease dated July 1, 1958, shall be as shown by red outline on the attached print of Railroad's Shasta Division Drawing L-33880, Sheet No. 1, dated July 12, 1963.
2. Sections 25, 26 and 28 of said lease are hereby null and void.
3. Lessee, subject to the terms and conditions of said lease is hereby permitted to use the dirt roadway indicated by solid red tint on said attached print as a means access to and from the said premises. Use of said roadway shall be non-exclusive, it being understood and agreed that Railroad reserves for itself, its agents, its employees, its licensees and invitees the right to use said roadway jointly with Lessee. Railroad shall not be required to assume any expense in connection with the maintenance of said roadway.
4. Lessee agrees to release, discharge and indemnify and save harmless Railroad from and against any and all liability, cost and

Exhibit "C" to ASSIGNMENT OF LEASES

expense for loss of or damage to property and injuries to or deaths of persons caused directly or indirectly from the use of said access roadway by Lessee, Lessee's agents, employees or invitees, unless caused by negligence of Railroad employees without contributing negligence on the part of Lessee, Lessee's agents, employees or invitees.

5. As of the said date of July 1, 1963, rental specified in said lease, Section 23, paragraph 1, is hereby null and void and Lessee agrees to pay to Railroad as rental for said premises the sum of Two Hundred Seventy Six (276) Dollars per annum payable annually in advance for the five year period ending June 30, 1968.

6. Except as herein otherwise provided all terms and conditions of said lease dated July 1, 1958, shall be and remain in full force and effect subject to termination as therein provided.

IN WITNESS WHEREOF, the parties hereto have caused this supplemental agreement to be executed in duplicate the day and year first herein written.

SOUTHERN PACIFIC COMPANY  
By P. F. Widdis Agr. Real Estate Dept.  
(Title)

KLAMATH ICE & STORAGE CO.  
By A. M. Butler  
Managing Partner

By Ross E. Fleet  
Active Partner

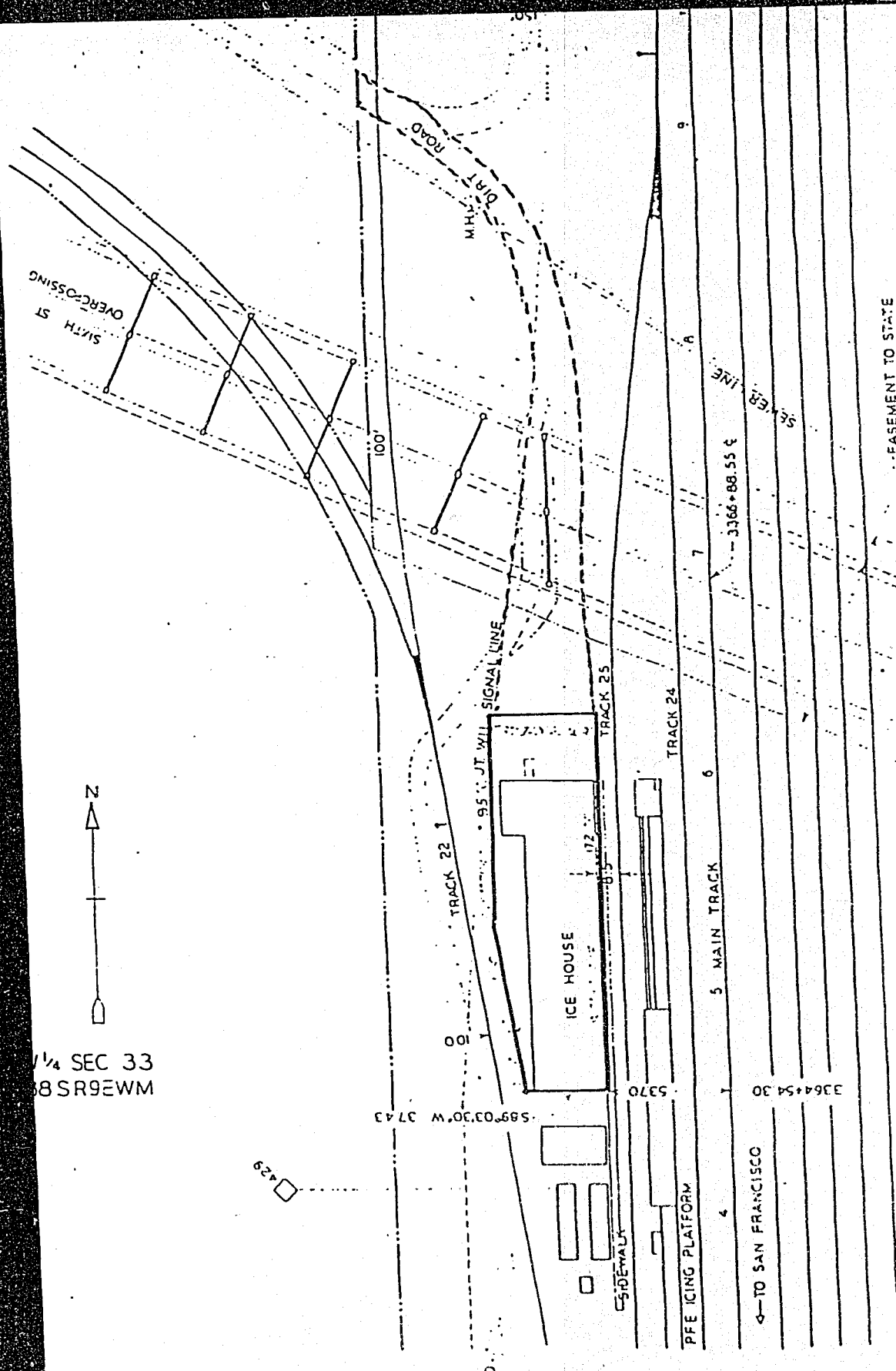
By Frank E. Fleet  
Active Partner

Co-Partners

Carolyn Collier Larson  
Phyllis Collier Kerns  
Charles L. Moore  
Earl T. Shephard  
Patricia Fleet Whitney  
Gilbert W. Fleet  
Frank E. Fleet

By A. M. Butler  
Managing Partner

WM39SR92W 33 SEC 1/4



LEGEND  
 --- C.P.R.Y. PROPERTY LINE  
 --- RED. LIMITS OF LEASE  
 AREA 7218 & SF 1  
 [ ] RED ROADWAY - NON EXCLUSIVE  
 USE BY LESSEE

EASEMENT TO STATE  
 DEED AUD N° 45720  
 REC 4/16/56 38282P224

SOUTHERN PACIFIC  
 KLAMATH  
 LEASE TO KLAMATH  
 STORAGE  
 SCALE 1"=10' CH

Exhibit "C" to ASSIGNMENT OF LEASES

## 20896

Witnesseth: That Railroad hereby leases to Lessee the premises of Railroad at or near Elanath  
Yalla Station, County of Elanath, State of Oregon, shown

Exhibit A attached and made a part hereof,  
for the term of fifteen (15) years from the 1st day of July, 1958,  
upon the following terms and conditions:

1. Railroad reserves for itself, its successors, assigns and licensees, the right to construct, maintain and operate any existing tracks and existing and additional pipe, telegraph, telephone and power transmission lines upon, over and beneath the leased premises.

Leasee hereby acknowledges the title of Railroad to the leased premises, and agrees never to assail or resist said title.

2. Lessor agrees to pay rental ~~of the premises~~ as specified in Section 2) of this lease. ~~XXXXXXXXXXXXXXXXXXXX~~

~~XX~~

Any privilege, sales, gross income or other tax (not including income tax) imposed upon the rentals herein provided to be paid by the Lessee, or upon the Railroad in an amount measured by the rentals received by Railroad, shall be paid by the Lessee, in addition to the amounts set forth herein, whether such imposition of tax be by The United States of America, the state in which the leased premises are located, or any subdivision or municipality thereof.

3. Said premises shall be used by Lessee solely and exclusively for maintenance and operation of warehouse and storage of ice and perishable food supplies and maintenance of access roadway located thereon.

Lessee agrees to comply with all applicable laws and regulations with respect to the use of the leased premises.

If the Lessee does not, within ninety (90) days, commence the use of the leased premises for the purposes herein mentioned, or if the Lessee discontinues such use for a period of ninety (90) days, the Railroad may at its option terminate this lease by giving fifteen (15) days' notice in writing to the Lessee, in which event the Lessee shall be liable to the Railroad for the full term of this lease, and the Railroad shall be entitled to the full term of this lease.

4. Lessee agrees to keep the leased premises and all buildings and structures thereon free from rubbish and in a neat and safe condition and satisfactory to Railroad. Lessee shall maintain, at Lessee's sole cost and expense, in good condition and repair, satisfactory to Railroad, all buildings and structures upon said leased premises, except those owned by the Railroad. The leased premises and buildings and structures thereon shall not be used for displaying signs and notices other than those connected with the business of Lessee contemplated by this lease. Such notices and signs shall be neat and properly maintained. Railroad shall have the right to enter the leased premises at reasonable times to inspect the same.

5. Lessee agrees to pay, before they become delinquent, all taxes and assessments against the leased premises, or which might become a lien thereon, by reason of any buildings, structures or other property, real or personal, on the leased premises (except those owned by Railroad), or by reason of Lessee's activities. Railroad may at its option pay such taxes or assessments, and such payments will be repaid by Lessee on demand.

6. Subject to any lawful charges therefor, Lessee may receive service on any Railroad-owned track upon or immediately adjacent to the leased premises, provided that such use will not interfere with use of the track for railroad purposes. Railroad shall have the right to serve other patrons upon such track or extensions thereof and incident thereto may temporarily remove cars consigned to Lessee on said track without liability to Lessee. Railroad may at any time, in its sole discretion, terminate service to Lessee on such Railroad-owned track. Lessee shall secure the written consent of the owner before requesting service upon any private industrial track.

Lessee agrees to comply with the clearance regulations set forth on attached Exhibit "A," and, where greater clearances are required by statute or lawful order, Lessee shall provide such greater clearances. A

Exhibit "C" to ASSIGNMENT OF LEASES



minimum overhead clearance of twenty-five (25) feet above tops of rails shall be provided for wires above tracks and for a horizontal clearance of at least eight (8) feet for the sliding type or shall, when opened, be swung outwards or away from the track where such building or enclosure is so located that said doors, windows or gates if opened towards the track would, when opened, be at clearances in violation of the clearances specified on said Exhibit "A." No pipe, conduit, structure, opening or excavation of any kind whatsoever shall be made or placed by Lessee beneath any track and no gate or other obstruction shall be constructed or maintained across said track without prior written approval from Railroad. No gunpowder, dynamite, gasoline, or other explosive material shall be piled or stored by Lessee upon the leased premises within one hundred (100) feet from nearest track.

The terms of this Section 6 shall not be deemed waived by either party except by written agreement.

7. In the event Lessee shall not promptly correct any default by Lessee hereunder after receipt of notice of such default from Railroad, Railroad shall have the right to terminate this lease forthwith and to retake possession of the leased premises. Waiver of any default shall not be construed as a waiver of a subsequent or continuing default. Termination of this lease shall not affect any liability by reason of any act, default or occurrence prior to such termination.

8. ~~THESE TERMS AND CONDITIONS SHALL BE DEEMED TO HAVE BEEN ACCEPTED BY THE LESSEE BY THE SIGNATURE OF THE LESSEE'S REPRESENTATIVE AT THE TIME OF THE SIGNING OF THIS LEASE.~~

9. Upon the expiration or termination of this lease, or any extension or renewal thereof, Lessee, without further notice, shall deliver up to Railroad the possession of the leased premises. Lessee, if not in default hereunder, shall be entitled, at any time prior to such expiration or termination, to remove from the leased premises any buildings or structures wholly owned by Lessee. Lessee shall restore said leased premises to the condition in which they existed at the time Lessee took possession. Upon the failure or refusal of Lessee to remove from the leased premises all buildings, structures and all personal property owned by Lessee, prior to the expiration or termination of this lease, said buildings, structures and personal property shall thereupon, at the option of Railroad, become the sole property of Railroad, or if Railroad so elects it may remove from the leased premises any buildings, structures and other personal property owned by Lessee, and Railroad may also restore the leased premises to substantially the condition in which they existed at the time Lessee took possession, all at the expense of Lessee, which expense Lessee agrees to pay Railroad upon demand. In the event of such failure or refusal of Lessee to surrender possession of said leased premises, Railroad shall have the right to re-enter upon said leased premises and remove Lessee, or any person, firm or corporation claiming by, through or under Lessee, therefrom.

10. Lessee shall not construct, reconstruct or alter structures of any character upon the leased premises without the prior written consent of Railroad. Lessee shall not commence any repairs (except emergency repairs) until fifteen (15) days after written notice to Railroad.

11. Lessee will fully pay for all materials joined or affixed to the leased premises, and pay in full all persons who perform labor upon the leased premises and will not suffer any mechanics' or materialmen's liens of any kind to be enforced against the leased premises for any work done, or materials furnished, at the Lessee's instance or request. If any such liens are filed thereon, Lessee agrees to remove the same at Lessee's own cost and expense and to pay any judgment which may be entered thereon or thereunder. Should the Lessee fail, neglect or refuse so to do, Railroad shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein, and the Lessee shall be liable to the Railroad for all costs, damages, and reasonable attorney fees, and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor. Railroad may post and maintain upon the leased premises notices of non-responsibility as provided by law.

12. In case the leased premises or any part thereof are in either the State of Arizona or Utah, Lessee will give Railroad and the lessor of Railroad, before allowing any construction, alteration or repair to be done upon the leased premises, a bond satisfactory in form and to be issued by some surety company to be approved by Railroad in a sum equal to the full contract price of such construction, alteration or repair, conditioned that the Lessee shall pay or cause to be paid all contractors, sub-contractors, laborers, operatives and other persons who may labor or furnish labor, materials or tools in the performance of such construction, alteration or repair.

13. Lessee agrees to release and indemnify Railroad from all liability, cost and expense arising from the breach by Lessee of any of the provisions of this lease.

14. In case Railroad shall successfully bring suit to compel performance of, or to recover for breach of, any covenant, agreement or condition herein written, Lessee will pay to Railroad reasonable attorney fees in addition to the amount of judgment and costs.

15. In case Lessee shall (except by Railroad) be lawfully deprived of the possession of the leased premises or any part thereof, Lessee shall notify Railroad in writing, setting forth in full the circumstances in relation thereto, whereupon Railroad may, at its option, either install Lessee in possession of the leased premises, or terminate this lease and refund to Lessee the pro rata amount of the rental for the unexpired term of the lease after the receipt of such notice, whereupon no claims for damages of whatsoever kind or character incurred by Lessee by reason of such dispossession shall be chargeable against Railroad.

20898

INSERT  
EXHIBIT

A parcel of land situate in the City of Klamath Falls,  
County of Klamath, State of Oregon, described as follows:

Beginning at a point in a line parallel with  
and distant 53.70 feet westerly, measured at right  
angles, from the center line of main track of the  
Central Pacific Railway Company, at Engineer Sta-  
tion 3364+54.30, (said point of beginning being  
also the southeast corner of an ice house); thence  
South 89° 02' 30" West at right angles from said  
parallel line, 37.43 feet to a point distant 10  
feet easterly, measured at right angles from the  
center line of said railway Company's industrial  
spur track; thence North 9° 11' 30" West parallel  
with the tangent portion of last said center line  
and the northerly prolongation thereof, 241.07  
feet; thence North 24° 33' 30" East 107.30 feet;  
thence North 27° 31' 30" West, 112.27 feet; thence  
North 56° 05' 30" West, 25.00 feet to a point on the  
westerly line of Central Pacific Railway Company's  
land; thence North 0° 57' 30" West along said west-  
erly line, 24.36 feet; thence South 56° 05' 30" East  
117.38 feet to a point in said line parallel with  
and distant 53.70 feet westerly, measured at right  
angles from said center line of main track; thence  
South 0° 57' 30" East along last said parallel line,  
407.45 feet to the point of beginning, containing an  
area of 23200 square feet, more or less.

\*\*\*\*\*

Exhibit "C" to ASSIGNMENT OF LEASES

INSERT  
EXHIBIT "C"

20899

20. Railroad shall also have the right to terminate this lease by written notice and to take exclusive possession of the premises in the event:

- (a) Lessee shall be adjudged a bankrupt.
- (b) Lessee becomes insolvent.
- (c) Any action or proceeding for debtor relief of Lessee be commenced by Lessee.
- (d) Lessee seeks general debtor relief by extra-judicial means.

Receipt of rent or other payments from any person for use of the leased premises shall not constitute a waiver of Railroad's right to terminate as above set forth. If there are two or more Lessees hereunder, or if Lessee is a partnership, Railroad's right to terminate shall arise in the event any one of the Lessees or partners is adjudged a bankrupt, becomes insolvent, seeks general debtor relief or commences or becomes subject to any of the proceedings set forth above.

21. In the event any essential portion of the improvements on the leased premises is so damaged by fire or other casualty as not to be restorable within ninety (90) days, either party may terminate this lease by written notice. If the improvements can be restored within ninety (90) days, Lessee shall promptly make such restoration at Lessee's own expense, failing in which Railroad may forthwith terminate this lease by written notice.

22. In the event all or any portion of the leased premises shall be condemned for public use, Lessee shall receive compensation only for the taking and damaging of Lessee's improvements. Any compensation or damages for taking said premises or Lessee's leasehold interest therein awarded to Lessee shall be assigned to Railroad.

of Exhibit "C" -

- Page 3 of

INSERT  
EXHIBIT  
(continued)

20900

23. The rent therefor agreed to be paid by Lessee to Railroad is as follows: Two Hundred Fifty (250) dollars per annum, payable annually in advance,

which sum is hereby agreed to be the minimum rental rate payable to Railroad during the entire term of this lease.

At any time or times after five years from the effective date of this lease such rental may be revised by Railroad by giving thirty (30) days' advance notice in writing to Lessee. Such rental shall be the reasonable and fair rental value of the leased premises at the time of such revision, as determined by Railroad and Lessee, but not less than the minimum rental rate hereinbefore set forth. When so revised, such rental shall not be subject again to revision until five years from the effective date of each such revision.

In the event Railroad and Lessee are unable to agree upon rental value, then upon request of either Railroad or Lessee the matter shall be submitted to and decided by three arbitrators, one to be appointed by Railroad, one by Lessee and a third by the two so appointed. If either Railroad or Lessee shall fail or refuse to appoint an arbitrator within thirty (30) days after notice has been given to it by the other party, the party giving such notice may and shall name and appoint an arbitrator for and on behalf of the party so in default. If the two arbitrators thus chosen shall be unable to agree upon the third arbitrator, such arbitrator shall be appointed upon application of either party by any Judge of the District Court of the United States for the district which shall then include the said leased premises, but such application shall not be made until such party shall have given twenty (20) days' notice in writing to the other party of its intention so to do. The arbitrators, as soon as possible after their selection, shall meet to hear and decide the question submitted to them and shall give to each of the parties hereto reasonable notice of the time and place of such meeting. The hearings of the Board of Arbitrators shall be conducted in a lawful manner. The written decision of the arbitrators, signed by a majority of them, shall determine the matter and such determination shall be final and conclusive upon the parties hereto. The fees and expenses of arbitration shall be borne as the parties may agree prior to the arbitration, or, in case of disagreement, shall be apportioned by the Board of Arbitrators fairly and equitably.

Nothing contained in this Section 23 shall be construed or deemed to extend the term of this lease or to amend or modify in any way the provisions of Section 16 hereof.

24. It is agreed that in the event assessments for public improvements are made against the land described in this lease, the rental in effect at such time shall be increased by six per cent (6%) per annum of the proportion of such assessments applicable to the land described on Exhibit "B".

25. This agreement shall be subject to the right of Railroad to install railroad tracks across dirt roadway on the leased premises should, in the opinion of Railroad, such be desirable, in which event Lessee agrees to maintain grade crossing at its own expense and install and maintain such roadway signs and whistle signs at locations and in forms designated by Railroad.

26. The dirt roadway located on leased premises shall be maintained at the expense of Lessee. Railroad shall have the right to use in common with Lessee said roadway.

- Page 1 of Exhibit "C" -

Exhibit "C" to ASSIGNMENT OF LEASES



20901

INSERT  
EXHIBIT "C"  
(continued)

27. Premises described in Exhibit "D" are leased to Lessee subject to the agreement between Railroad and State of Oregon (Railroad's Document Audit No. 102198) dated January 27, 1956, covering grant of easement for highway overpass over leased premises.

28. Indemnification of Railroad by Lessee contained in Section 1) above shall not be deemed to include occurrences in which Lessee is neither responsible nor involved.

- Page 3. of Exhibit "C" -

Exhibit "C" to ASSIGNMENT OF LEASES

17. Any notice to be given by Railroad to Lessee hereunder shall be deemed to be properly served if delivered to Lessee, or if deposited in the post office, postpaid, addressed to Lessee at the leased premises or to last known address.

18. Time and specific performance are each of the essence of this lease.

19. It is understood and agreed that Sections 20 to 28, inclusive, on the insert marked "Exhibit 'C'" hereto attached are hereby made parts of this lease.

THIS LEASE shall inure to the benefit of and be binding upon the heirs, administrators, executors, successors and assigns of the parties hereto, but shall not be assigned or subleased by Lessee without the prior written consent of Railroad.

IN WITNESS WHEREOF, the parties hereto have executed this lease in triplicate the day and year first above written.

SOUTHERN PACIFIC COMPANY,

By (Title)

Attest: S. D. Ryan  
Assistant Secretary

WITNESSED BY:

L. J. [Signature]

DESCRIPTION CORRECT:

R. R. Dignisher  
Division Engineer.

CENTRAL PACIFIC RAILWAY COMPANY.

By (Title) S. D. Ryan

Attest: Chas. F. [Signature]  
Assistant Secretary

KLAMATH ICE AND STORAGE COMPANY,

(See Note)

(Lessee)

By A. M. [Signature] Partner

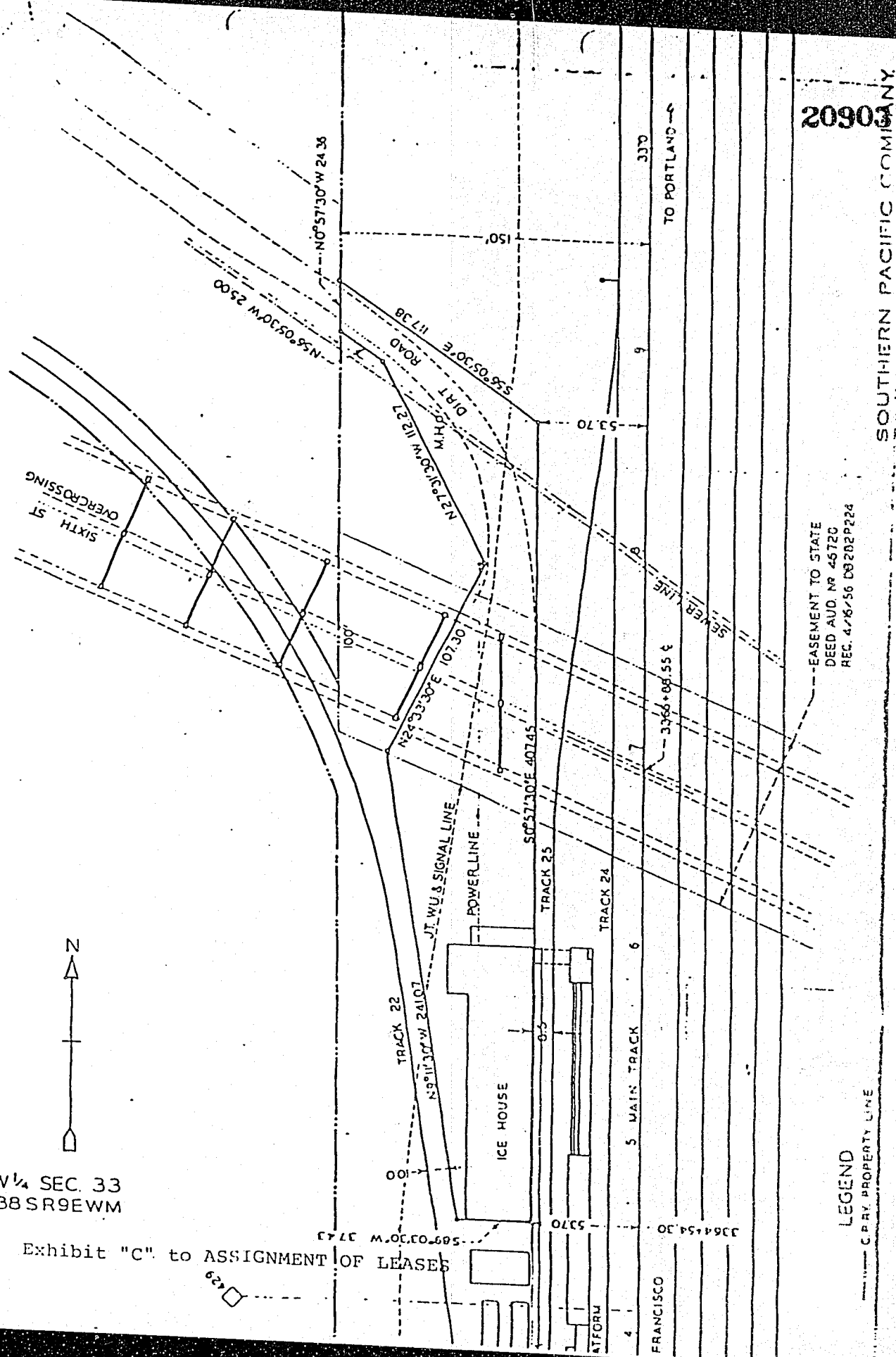
By E. M. [Signature] Partner

By L. [Signature] Partner

Exhibit "C" to ASSIGNMENT OF LEASES

SW 1/4 SEC. 33  
T38SR9EWM

Exhibit "C" to ASSIGNMENT OF LEASES



LEGEND  
C.P.R. PROPERTY LINE

EASEMENT TO STATE  
DEED AUD. NR 45720  
REC. 4/6/56 DB202P224

20903  
SOUTHERN PACIFIC COMPANY

Terminates Lease  
Audit No. 104324

SOUTHERN PACIFIC COMPANY

# LEASE

This Lease, made and entered into this 16 day of January 1957 by and between the SOUTHERN PACIFIC COMPANY, a corporation, first party, hereinafter called "Railroad," and KLEATH ICE AND STORAGE COMPANY, a partnership composed of COLLETT, F. L. JR., ROBERT W. BARNARD, CHARLES E. BARNARD, CARL T. SHEPHERD, LARSON and PHYLLIS COLLIER KLEATH, second party, hereinafter called "Lessee," address: 601 Spring St., Klamath Falls, Oregon.

Witnesseth: That Railroad, for and in consideration of the covenants and payments hereinafter mentioned to be performed and made by the Lessee, hereby leases unto said Lessee the following described portion of the premises of said Railroad at or near Klamath Falls Station, County of Klamath State of Oregon.

That certain parcel of land shown enclosed within red lines on the print of Shasta Div'n. drawing L-2258, revised September 7, 1956, attached and made a part hereof, for the term of five (5) years commencing on July 1st, 1956 and ending on June 30, 1961, but subject to termination as set forth in Section 26 hereof.

Railroad reserves for itself, its successors and assigns, the right to construct, maintain and operate any existing track or tracks and existing and/or additional pipe, telegraph, telephone and power transmission lines upon, over and/or beneath the said leased premises.

The rent therefor agreed to be paid is ONE HUNDRED AND NO/100ths Dollars (\$ 100.00 ) per annum, payable annually in advance.

Lessee hereby acknowledges the title of Railroad in and to the premises described in this lease, and agrees never to assail or resist said title.

Lessee covenants and agrees:

1. That said premises shall be used by Lessee solely and exclusively for maintenance and operation of ice house, engine house, crossover, lower, incline, conveyors, driveway and truck unloading platform, and that Lessee will pay the rent at the times and in the amounts herein specified, and perform, observe and fulfill all other obligations on Lessee's part herein contained.

If the Lessee does not, within ninety (90) days, commence the use of the property for the purposes herein mentioned, or if the Lessee discontinues such use for a period of ninety (90) days, the Railroad may at its option terminate this lease by giving fifteen (15) days' notice in writing to the Lessee.

2. Not to under-lease or sub-let said leased premises, or any part thereof, or assign this lease or any interest therein, without the written consent of Railroad and satisfactory obligation by proposed sub-tenant, sub-lessee or assignee, to be bound by all the terms and provisions of this lease first had and obtained.

3. To comply with clearance regulations as delineated on the chart marked Exhibit "A" hereto attached and made a part hereof. A minimum overhead clearance of twenty-five (25) feet, measured vertically above tops of rails, shall be observed for wires over or across any track and for a horizontal distance of at least eight (8) feet six (6) inches from the center line of such track; subject, however, to statutes or orders of competent public authority having jurisdiction in the premises. If, by statute or order of competent public authority, greater clearances than those specified on said Exhibit "A" shall be required, Lessee shall strictly comply with such statute or order. All doors, windows or gates of any building or enclosure shall be of the sliding type or shall, when opened, be swung away from the track when such building or enclosure is so located that said doors, windows or gates if opened toward the track would, when opened, be at clearances in violation of the clearances specified on said Exhibit "A". No pipe, conduit, structure, opening or excavation of any kind whatsoever shall be made or placed by Lessee beneath any track without written approval from Railroad first had and obtained, and no gunpowder, dynamite, gasoline, or other explosive material shall be piled or stored by Lessee or others upon said leased premises within one hundred (100) feet from nearest track.

4. That said leased premises and any and all buildings and structures erected thereon shall at all times be kept free from rubbish and in a neat and safe condition and satisfactory to Railroad. The Lessee shall maintain, at Lessee's sole cost and expense, in good condition and repair, satisfactory to Railroad, any and all buildings and structures upon said leased premises, except those owned by the Railroad. Said leased premises and buildings and structures erected thereon shall not be used for displaying signs and notices other than those connected with the business of Lessee contemplated by this lease. Such notices and signs shall be neat and properly maintained. Railroad and its agents and employees shall have the right to demised premises at any and all reasonable times to inspect the same.

Exhibit "C" to ASSIGNMENT OF LEASES



1. To pay before the same become due, all taxes, assessments, and charges of any kind, including but not limited to, taxes on the premises, taxes on the income derived from the premises, and taxes on the property owned by the Railroad. Railroad may at all times pay any such taxes or assessments, and all payments so made by Railroad will be repaid upon demand by Lessee.

2. In case of breach of any of the terms, covenants or conditions herein contained, Lessee shall indemnify Railroad and its agents against all liability for loss, damage, injury and death arising therefrom.

It is further agreed:

3. In event said leased premises are located adjacent to a spur or side track used by Railroad as a railroad facility, Lessee shall be permitted, as a matter of accommodation but not as a matter of legal right, to receive service thereon at such times as such service to Lessee will not interfere with use of such track by Railroad for railroad purposes. In event said leased premises are located adjacent to a private industrial track Lessee agrees to arrange with the owner for service thereon. Said tracks shall be under full control of Railroad and may be used at discretion of Railroad for its business or for shipment or delivery of any freight. Lessee covenants and agrees that if, in the judgment of Railroad, operations of Railroad make it necessary or desirable that private industrial spur or side tracks be installed to serve Lessee and Lessee desires to have the benefit of track service, Lessee shall, upon request of Railroad, construct and maintain said private industrial spur or side tracks under the usual terms and practice of Railroad with respect to construction and maintenance of industrial tracks.

4. If Lessee shall make default with respect to any covenant, agreement or stipulation upon Lessee's part herein contained, Railroad may at its option forthwith terminate this lease and re-enter upon said leased premises and take exclusive possession. The waiver by Railroad of any default on the part of Lessee shall not be construed as a waiver of any other or subsequent default, nor shall failure to terminate this lease immediately upon the occurrence of a continuing default be construed as a waiver of the right to terminate at a later date due to such continuing default. The termination of this lease shall not in any manner relieve or release Lessee from any liability which may have attached or accrued prior to or at the time of such termination, nor from any covenant or obligation to indemnify or to hold Railroad harmless or to pay damages or judgments herein contained.

5. That in case Lessee holds over the term of this lease, with the consent of Railroad, such holding over shall be deemed a tenancy only from month to month, and upon the same terms and conditions as herein stated.

6. For the purpose of this lease, the term "premises" shall include all buildings, structures and any other property owned by Lessee and located upon the leased premises, and the term "leased premises" shall include all buildings, structures and any other property owned by Lessee and located upon the leased premises, and the term "premises" shall include all buildings, structures and any other property owned by Lessee and located upon the leased premises, and the term "leased premises" shall include all buildings, structures and any other property owned by Lessee and located upon the leased premises.

7. Any notice to be given by Railroad to Lessee hereunder shall be deemed to be properly served if the same be delivered to Lessee, or if left with any of the agents, servants or employees of Lessee on the leased premises, or if posted on the leased premises, or if deposited in the post office, post paid, addressed to Lessee at said premises or to last known address.

8. That upon the expiration or termination of this lease, or any extension or renewal thereof, or holding over said term, by limitation or in any manner, Lessee, without further notice, shall deliver up to Railroad the possession of said leased premises, and Lessee, provided no default shall at such time exist in respect of any payments or rentals, or in respect of any covenants, agreements or conditions to be kept and performed by Lessee, shall be entitled, at any time prior to such expiration or termination, to remove from said leased premises any buildings or structures, including railroad tracks, switches and appliances connected therewith, which are wholly owned by Lessee; it being expressly understood and agreed, however, that Railroad shall have the right at any time to purchase at its then value Lessee's interest in any or all material in said railroad tracks, switches and appliances. Lessee shall restore said leased premises to the same state and condition in which they existed at the time Lessee took possession. Upon the failure or refusal of Lessee to remove from said leased premises all buildings, structures and all personal property owned by Lessee, prior to the expiration or termination of this lease, said buildings, structures and all personal property shall thereupon, at the option of Railroad, become and remain the sole property of Railroad, or if Railroad so elects it may remove from said leased premises any buildings, structures and other personal property owned by Lessee, and Railroad may also restore said leased premises to substantially the same state and condition in which they existed at the time Lessee took possession, all at the expense of Lessee, which expense Lessee agrees to pay Railroad upon demand. In the event of such failure or refusal of Lessee to surrender possession of said leased premises, Railroad shall have the right to re-enter upon said leased premises and remove Lessee, or any person, firm or corporation claiming by, through or under Lessee therefrom.

The Lessee hereby covenants and agrees:

9. That any privilege, sales, gross income or other tax (not including income tax) imposed upon the rentals herein provided to be paid by the Lessee, or upon the Railroad in an amount measured by the rentals received by Railroad, shall be paid by the Lessee, in addition to the amounts set forth herein, whether such imposition of tax be by The United States of America, the state in which the said premises are located, or any subdivision or municipality thereof.

I N S E R T  
EXHIBIT "C"

22. Lessee shall and hereby agrees to observe and comply with all federal, state, county and municipal laws now in effect or hereafter enacted with respect to the occupancy of said leased premises, in default of which Railroad may, at its option, forthwith terminate this lease and reenter upon the said leased premises and remove all persons therefrom.

23. In the event said improvements or any essential part thereof upon the said premises shall at any time be totally destroyed by fire, or other casualty, or partially destroyed, so that same cannot be restored or repaired within ninety (90) days from the date of the destruction or injury, then either party hereto may at its option cancel this lease forthwith by giving written notice to that effect to the other party; but in case of partial destruction or injury and the premises can be repaired and made tenantable within ninety (90) days from the occurrence of such injury, then Lessee shall replace and/or repair the same as soon as practicable with all reasonable speed, care and diligence, and in the event said premises are not replaced and/or repaired by Lessee within ninety (90) days to the satisfaction of Railroad, then Railroad may, at its option, forthwith terminate this lease and the tenancy of Lessee hereunder by written notice to Lessee to that effect.

24. In case Lessee shall be adjudged a bankrupt, by either voluntary or involuntary proceedings, Railroad may, at its option, terminate this lease by written notice. The receipt of rent or other payments from any person for the use of the demised premises after the date of adjudication of bankruptcy shall not constitute a waiver of Railroad's option to terminate this lease. After termination by notice, Railroad may reenter the demised premises and take exclusive possession. The option of Railroad herein provided also shall be exercisable in the event that Lessee becomes insolvent or any action or proceeding for debtor relief of Lessee be commenced by or against Lessee or general debtor relief be sought by Lessee by extrajudicial means. Upon exercise of the option to terminate, the estate and rights of Lessee and any person claiming through the Lessee by act of the parties or operation of law shall immediately terminate. If there are two or more Lessees hereunder, or if Lessee is a partnership, then the option of Railroad to terminate the entire lease shall be exercisable in case any one of the Lessees or partners is adjudged a bankrupt or becomes subject to or participates in any other proceedings or procedure herein mentioned.

25. It is understood and agreed that, notwithstanding any other provision herein contained, in the event of condemnation for public use of the land herein described, or any portion thereof, Lessee shall receive compensation only for the taking and damaging of Lessee's improvements, and any other compensation shall be received by Railroad regardless of how or to whom it may be awarded. In this connection it is understood that compensation to Railroad for land taken, or damaged by reason of the severance thereof, shall not be reduced by reason of any award to Lessee.

26. It is agreed that, notwithstanding anything to the contrary herein contained, this lease may be terminated by either party hereto on the following dates, namely, June 30, 1958, June 30, 1959 and June 30, 1960, by giving sixty (60) days' notice in writing to the other party prior to the date it is desired to so terminate this lease.

27. Lessee agrees to pay all taxes which are locally assessed against the said leased premises in addition to the taxes specified in Section 5 hereof and at the times and in the manner as are specified therein.

IN S V X T  
A. H. B. T. H. T.  
(continued)

20907

28. Lessee specifically agrees to accept this lease and hereby accepts same subject to that certain indenture dated January 27, 1956, between Central Pacific Railway Company, Southern Pacific Company and State of Oregon (Document Audit No. 102198), covering grant of easement to construct, maintain and use a highway upon and across real property situate in the City of Klamath Falls, Klamath County, Oregon. Lessee agrees to cause the design and construction of any structure erected on the premises hereby leased to be such as will not prevent the construction, reconstruction, maintenance and use of said highway.

29. Lessee agrees to release and indemnify Railroad from all liability, cost and expense for loss of or damage to property and for injuries to or deaths of persons arising directly or indirectly from the occupancy and use of said leased premises, except when due to the sole negligence of Railroad not contributed to by breach of any of the provisions of this lease by Lessee.

12. To give Railroad at least fifteen (15) days' written notice in advance of the commencement of any work of repairs upon any structures located upon the leased premises, except emergency repairs.

13. The Lessee will fully pay for all materials joined or affixed to said leased premises, and pay in full all persons who perform labor upon said leased premises and will not permit or suffer any mechanics or materials furnished, thereon at the Lessee's instance or request. Lessee agrees to indemnify and hold the Railroad harmless against any and all such liens. If any such liens are filed thereon, Lessee agrees to remove the same at Lessee's own cost and expense and shall pay any judgment which may be entered thereon or thereunder. Should the Lessee fail, neglect or refuse so to do, Railroad shall have the right to pay any amount required to release any such lien or liens, or to defend any action brought thereon, and to pay any judgment entered therein, and the Lessee shall be liable to the Railroad for all costs, damages, and reasonable attorney fees, and any amounts expended in defending any proceedings, or in the payment of any of said liens or any judgment obtained therefor. Railroad may post and maintain upon the leased premises notices of non-responsibility as provided by law.

14. In case said leased premises or any part thereof are in either the State of Arizona or Utah, Lessee will give Railroad and the lessor of Railroad, before allowing any construction, alteration or repair to be done upon the said leased premises, a bond satisfactory in form and to be issued by some surety company to be approved by Railroad in a sum equal to the full contract price of any construction, alteration or repair to be done upon the above-mentioned premises at the instance or request of Lessee, conditioned that the Lessee shall pay or cause to be paid all contractors, sub-contractors, laborers, operatives and other persons who may labor or furnish labor, materials or tools in the performance of such construction, alteration or repair.

15. That in case Railroad shall bring suit to compel performance of, or to recover for breach of any covenant, agreement or condition herein written, Lessee shall and will pay to Railroad reasonable attorney fees in addition to the amount of judgment and costs.

16. That in case Lessee shall (except by Railroad) be lawfully deprived of the possession of said premises at any part thereof, Lessee shall notify Railroad in writing, setting forth in full the circumstances in relation thereto, whereupon Railroad may, at its option, either install Lessee in possession of said premises, or terminate the lease and refund to Lessee the pro rata amount of the rental for the unexpired term of the lease, and after the receipt of such notice, whereupon no claims for damages of whatsoever kind or character incurred by Lessee by reason of such dispossession shall be chargeable against Railroad.

17. The time and specific performance are each of the essence of this lease.

18. This lease terminates and supercedes that certain lease dated May 21, 1954, as amended, between the parties hereto, covering premises at said Elmath Falls, Oregon.

19. It is understood and agreed that Sections 22 to 29, inclusive, of the attached insert marked Exhibit "B" are hereby made parts of this lease.

20. This lease shall inure to the benefit of and be binding upon the heirs, administrators, executors, assigns and assigns of the parties hereto.

21. IN WITNESS WHEREOF, the parties hereto have executed this lease in duplicate the day and year first above written.

SOUTHERN PACIFIC COMPANY,

E. F. Vidias Agr. Real Estate Dept.

By \_\_\_\_\_  
Superintendent

(OVER)

(See Note)

(Lessee)

WITNESSES:

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Attorney



By C. W. Langley  
Partner

By J. M. Dyer  
Partner

By J. W. J. Shubert  
Partner

By Robert W. Dyer  
Partner

By Frank E. Field  
Partner

By William Dyer Whitney  
Partner

By Philip R. R. R. R.  
Partner

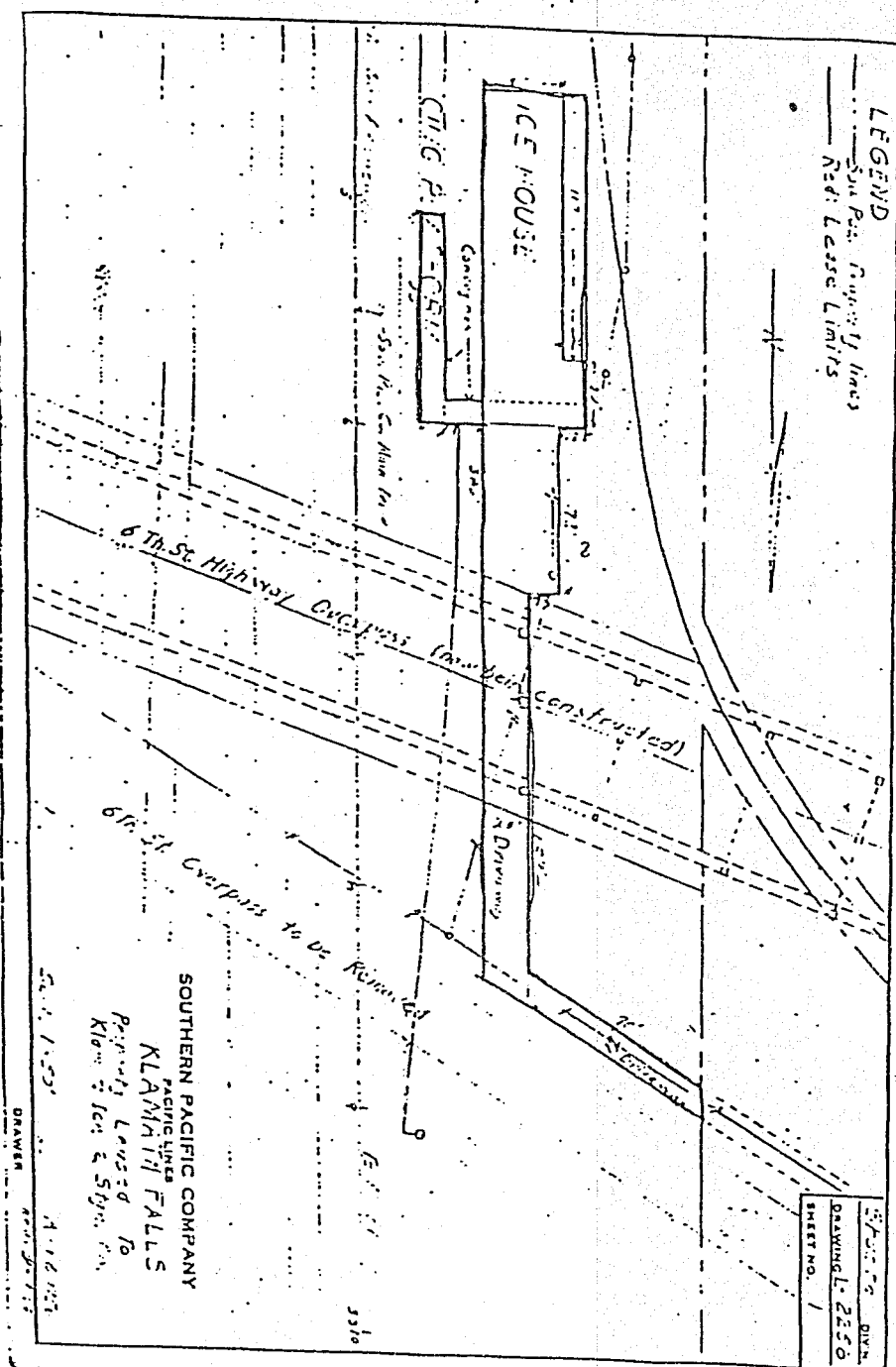
By Richard L. Moore  
Partner

By Carolyn R. R. R.  
Partner

20909

Exhibit "C" to ASSIGNMENT OF LEASES

20910



STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 31st day of August A.D., 19 79 at 2:56 o'clock P M., and duly recorded in Vol N79 of Deeds on Page 20881.

FEE \$105.00

WM. D. MILNE, County Clerk

By Bernard H. H. H. H. Deputy