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10288

TRUST DEED

Vol. mgo Page 1201

THIS TRUST DEED, made this 12th day of January, 1990, between  
RICHARD R. BATSELL and LARRY D. BATSELL dba BATSELL BROTHERS OIL COMPANY

as Grantor, William P. Brandsness, as Trustee, and  
South Valley State Bank,  
 as Beneficiary,

## WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in-trust, with power of sale, the property  
 in Klamath County, Oregon, described as:

See attached Exhibit 3 by this reference made a part hereof.

together with all and singular the tenements, hereditaments and appurtenances and all other rights thereunto belonging or in anywise  
 now or hereafter appertaining, and the rents, issues and profits thereof and all fixtures now or hereafter attached to or used in connection  
 with said real estate.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor herein contained and payment of the  
 sum of Eighty Thousand and No/100

-----Dollars, with interest thereon according to the terms of a promissory  
 note of even date herewith, payable to beneficiary or order and made by grantor, the final payment of principal and interest hereof, if  
 not sooner paid, to be due and payable March 15, 1990 with rights to future advances and renewals.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of said note  
 becomes due and payable. In the event the within described property, or any part thereof, or any interest therein is sold, agreed to be  
 sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary,  
 then, at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed therein, or  
 herein, shall become immediately due and payable.

## To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain said property in good condition  
 and repair; not to remove or demolish any building or improvement thereon;  
 not to commit or permit any waste of said property;

2. To complete or restore promptly and in good and workmanlike  
 manner any building or improvement which may be constructed, damaged or  
 destroyed thereon, and pay when due all costs incurred therefor.

3. To comply with all laws, ordinances, regulations, covenants, conditions  
 and restrictions affecting said property; if the beneficiary so requests, to  
 join in executing such financing statements pursuant to the Uniform Commercial  
 Code as the beneficiary may require and to pay for filing same in the  
 proper public office or offices, as well as the cost of all lien searches made  
 by filing officers or searching agencies as may be deemed desirable by the  
 beneficiary.

4. To provide and continuously maintain insurance on the buildings  
 now or hereafter erected on the said premises against loss or damage by fire  
 and such other hazards as the beneficiary may from time to time require, in  
 an amount not less than full amount, written in  
 companies acceptable to the beneficiary, and loss payable to the latter; all  
 policies of insurance shall be delivered to the beneficiary as soon as insured;  
 if the grantor shall fail or any reason to procure any such insurance and to  
 deliver said policies to the beneficiary at least fifteen days prior to the expiration  
 of any policy of insurance now or hereafter placed on said buildings,  
 the beneficiary may procure the same at grantor's expense. The amount  
 collected under any fire or other insurance policy may be applied by beneficiary  
 upon any indebtedness secured hereby and in such order as beneficiary  
 may determine, or at option of beneficiary the entire amount so collected, or  
 any part thereof, may be released to grantor. Such application or release shall  
 not cure or waive any default or notice of default hereunder or invalidate any  
 act done pursuant to such notice.

5. To keep said premises free from construction liens and to pay all  
 taxes, assessments and other charges that may be levied or assessed upon or  
 against said property before any part of such taxes, assessments and other  
 charges become past due or delinquent and promptly deliver receipts therefor  
 to beneficiary; should the grantor fail to make payment of any taxes, assessments,  
 insurance, premiums, liens or other charges payable by grantor, either  
 by direct payment or by providing beneficiary with funds with which to  
 make such payment, beneficiary may, at its option, make payment thereof,  
 and the amount so paid, with interest at the rate set forth in the note secured  
 hereby, together with the obligations described in paragraphs 6 and 7 of this  
 trust deed, shall be added to and become a part of the debt secured by this  
 trust deed, without waiver of any rights arising from breach of any of the  
 covenants hereof and for such payments, with interest as aforesaid, the property  
 herebefore described, as well as the grantor, shall be bound to the  
 same extent that they are bound for the payment of the obligation herein  
 described, and all such payments shall be immediately due and payable with  
 out notice, and the nonpayment thereof shall, at the option of the beneficiary,  
 render all sums secured by this trust deed immediately due and payable and  
 constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost  
 of title search as well as the other costs and expenses of the trustee incurred  
 in connection with or in enforcing this obligation and trustee's attorney's  
 fees actually incurred.

7. To appear in and defend any action or proceeding purporting to  
 affect the security rights or powers of beneficiary or trustee, and in any suit,  
 action or proceeding in which the beneficiary or trustee may appear, including  
 any suit for the foreclosure of this deed, to pay all costs and expenses, including  
 evidence of title and the beneficiary's or trustee's attorney's fees; the  
 amount of attorney's fees mentioned in paragraph 7 in all cases shall be  
 fixed by the trial court and in the event of an appeal from any judgment or  
 decree of the trial court, grantor further agrees to pay such sum as the appellate  
 court shall adjudge reasonable as the beneficiary's or trustee's attorney's  
 fees on such appeal.

## It is mutually agreed that:

8. In the event that any portion or all of said property shall be taken  
 under the right of eminent domain or condemnation, beneficiary shall have the  
 right, if it so elects, to require that all or any portion of the monies payable  
 as compensation for such taking, which are in excess of the amount actually paid or  
 incurred by grantor in such proceedings, shall be paid to beneficiary and  
 applied by it first upon any reasonable costs and expenses and attorney's fees,  
 both in the trial and appellate courts, necessarily paid or incurred by beneficiary  
 in such proceedings, and the balance applied upon the indebtedness  
 secured hereby; and grantor agrees, at its own expense, to take such actions  
 and execute instruments as shall be necessary in obtaining such compensation,  
 promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary,  
 payment of its fees and presentation of this deed and the note for  
 endorsement (in case of full reconveyances, for cancellation), without affecting  
 the liability of any person for the payment of the indebtedness, trustee shall  
 (a) consent to the making of any map or plat of said property; (b) join in

granting any easement or creating any restriction thereon; (c) join in any  
 subordination or other agreement affecting this deed or the lien or charge  
 thereof; (d) reconvey, without warranty, all or any part of the property. The  
 grantee in any reconveyance may be described as the "person or persons  
 legally entitled thereto," and the recitals therein of any matters or facts shall  
 be conclusive proof of the truthfulness thereof. Trustee's fees for any of the  
 services mentioned in this paragraph shall be not less than \$5.

10. Upon any default by grantor hereunder, beneficiary may at any  
 time, without notice, either in person, by agent or by a receiver to be appointed  
 by a court, and without regard to the adequacy of any security for the  
 indebtedness hereby secured, enter upon and take possession of said property  
 or any part thereof, in its own name sue or otherwise collect the rents,  
 issues and profits, including those past due and unpaid, and apply the same,  
 less costs and expenses of operation and collection, including reasonable attorney's  
 fees upon any indebtedness secured hereby, and in such order as beneficiary  
 may determine.

11. The entering upon and taking possession of said property, the  
 collection of such rents, issues and profits, or the proceeds of fire and other  
 insurance policies or compensation or awards for any taking or damage of the  
 property, and the application or release thereof as aforesaid, shall not cure or  
 waive any default or notice of default hereunder or invalidate any act done  
 pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured  
 hereby or in his performance of any agreement hereunder, time being of the  
 essence with respect to such payment and/or performance, the beneficiary may  
 declare all sums secured hereby immediately due and payable. In such an  
 event the beneficiary at his election may proceed to foreclose this trust deed  
 in equity as a mortgage or direct the trustee to pursue any other right or  
 remedy, either at law or in equity, which the beneficiary may have. In the event  
 the beneficiary elects to foreclose by advertisement and sale, the beneficiary or  
 the trustee shall execute and cause to be recorded his written notice of default  
 and his election to sell the said described real property to satisfy the obligation  
 secured hereby, whereupon the trustee shall fix the time and place of sale, give  
 notice thereof as then required by law and proceed to foreclose this trust deed  
 in the manner provided in ORS 86.735 to 86.795.

13. After the trustee has commenced foreclosure by advertisement and  
 sale, and at any time prior to 5 days before the date the trustee conducts the  
 sale, the grantor or any other person so privileged by ORS 86.753, may cure  
 the default or defaults. If the default consists of a failure to pay, when due,  
 sums secured by the trust deed, the default may be cured by paying the  
 entire amount due at the time of the cure other than such portion as would  
 not then be due had no default occurred. Any other default that is capable of  
 being cured may be cured by tendering the performance required under the  
 obligation or trust deed. In any case, in addition to curing the default or  
 defaults, the person effecting the cure shall pay to the beneficiary all costs  
 and expenses actually incurred in enforcing the obligation of the trust deed  
 together with trustee's and attorney's fees not exceeding the amounts provided  
 by law.

14. Otherwise, the sale shall be held on the date and at the time and  
 place designated in the notice of sale or the time to which said sale may  
 be postponed as provided by law. The trustee may sell said property either  
 in one parcel or in separate parcels and shall sell the parcel or parcels at  
 auction to the highest bidder for cash, payable at the time of sale. Trustee  
 shall deliver to the purchaser its deed in form as required by law conveying  
 the property so sold, but without any covenant or warranty, express or implied.  
 The recitals in the deed of any matters of fact shall be conclusive proof  
 of the truthfulness thereof. Any person, excluding the trustee, but including  
 the grantor and beneficiary, may purchase at the sale.

15. When trustee sells pursuant to the powers provided herein, trustee  
 shall apply the proceeds of sale to payment of (1) the expenses of sale, in-  
 cluding the compensation of the trustee and a reasonable charge by trustee's  
 attorney, (2) to the obligation secured by the trust deed, (3) to all persons  
 having recorded liens subsequent to the interest of the trustee in the trust  
 deed as their interests may appear in the order of their priority and (4) the  
 surplus, if any, to the grantor or to his successor in interest entitled to such  
 surplus.

16. Beneficiary may from time to time appoint a successor or successors  
 to any trustee named herein or to any successor trustee appointed hereunder.  
 Upon such appointment, and without conveyance to the successor trustee,  
 the latter shall be vested with all title, powers and duties conferred  
 upon any trustee herein named or appointed hereunder. Each such appointment  
 and substitution shall be made by written instrument executed by beneficiary,  
 which when recorded in the mortgage records of the county or counties in  
 which the property is situated, shall be conclusive proof of proper appointment  
 of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and  
 acknowledged is made a public record as provided by law. Trustee is not  
 obligated to notify any party hereto of pending sale under any other deed of  
 trust or of any action or proceeding in which grantor, beneficiary or trustee  
 shall be a party unless such action or proceeding is brought by trustee.

NOTE: The Trust Deed Act provides that the trustee hereunder must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company  
 or savings and loan association authorized to do business under the laws of Oregon, or the United States, a title insurance company authorized to insure title to real  
 property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under ORS 696.505 to 696.515.

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The grantor covenants and agrees to and with the beneficiary and those claiming under him, that he is lawfully seized in fee simple of said described real property and has a valid, unencumbered title thereto

and that he will warrant and forever defend the same against all persons whomsoever.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:  
(b) for an organization, or (even if grantor is a natural person) are for business or commercial purposes.

This deed applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledgee, of the contract secured hereby, whether or not named as a beneficiary herein. In construing this deed and whenever the context so requires, the masculine gender includes the feminine and the neuter, and the singular number includes the plural.

IN WITNESS WHEREOF, said grantor has hereunto set his hand the day and year first above written.

RICHARD R. BATSELL and LARRY D. BATSELL dba  
BATSELL BROTHERS OIL COMPANY

\* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act and Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosures; for this purpose use Stevens-Noss Form No. 1319, or equivalent. If compliance with the Act is not required, disregard this notice.

By: Richard R. Batsell  
Richard R. Batsell  
By: Larry D. Batsell  
Larry D. Batsell

(If the signer of the above is a corporation, use the form of acknowledgement opposite.)

STATE OF OREGON,

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_

Notary Public for Oregon

(SEAL)

My commission expires: \_\_\_\_\_

STATE OF OREGON,

County of \_\_\_\_\_ Klamath

This instrument was acknowledged before me on JANUARY 31, 1990, by Richard R. Batsell & Larry D. Batsell

as partners  
of RICHARD R. BATSELL and LARRY D. BATSELL dba  
BATSELL BROTHERS OIL COMPANY

Notary Public for Oregon

My commission expires: 6/12/92

(SEAL)

#### REQUEST FOR FULL RECONVEYANCE

To be used only when obligations have been paid.

TO: \_\_\_\_\_, Trustee

The undersigned is the legal owner and holder of all indebtedness secured by the foregoing trust deed. All sums secured by said trust deed have been fully paid and satisfied. You hereby are directed, on payment to you of any sums owing to you under the terms of said trust deed or pursuant to statute, to cancel all evidences of indebtedness secured by said trust deed (which are delivered to you herewith together with said trust deed) and to reconvey, without warranty, to the parties designated by the terms of said trust deed the estate now held by you under the same. Mail reconveyance and documents to \_\_\_\_\_

DATED: \_\_\_\_\_, 19\_\_\_\_

Beneficiary

Do not lose or destroy this Trust Deed OR THE NOTE which it secures. Both must be delivered to the trustee for cancellation before reconveyance will be made.

### TRUST DEED

(FORM No. 881)  
STEVENS-NOSS LAW PUB. CO., PORTLAND, ORE.

BATSELL BROTHERS OIL COMPANY

Grantor

South Valley State Bank

Beneficiary

AFTER RECORDING RETURN TO  
South Valley State Bank  
801 Main Street  
Klamath Falls, OR 97601

SPACE RESERVED  
FOR  
RECORDER'S USE

STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ or as fee/file/instrument/microfilm/reception No. \_\_\_\_\_, Record of Mortgages of said County. Witness my hand and seal of County affixed.

By \_\_\_\_\_ NAME \_\_\_\_\_ TITLE \_\_\_\_\_ Deputy

EXHIBIT 3

A tract of land situated in the NW1/4 of the SW1/4 of Section 7, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Beginning at an iron pin on the Westerly Boundary of the New Dalles-California Highway, said point being South 89 degrees 49' East 799.0 feet to the Westerly boundary of said highway and South 11 degrees 36' East along said boundary 1056.29 feet from the West quarter corner of said Section 7; thence North 11 degrees 36' West along the Westerly boundary of said Highway 100 feet; thence South 78 degrees 24' West 27 feet; thence South 11 degrees 36' East 13 feet; thence South 78 degrees 24' West 73.15 feet; thence South 11 degrees 36' East 87 feet to an existing iron monument, which is the most Southerly corner of that parcel of land described in Deed Volume 266, page 322, Deed Records of Klamath County, Oregon; thence North 69 degrees 29' West, 26 feet to an iron pin; thence South 11 degrees 36' East parallel with said highway 213.8 feet to an iron pin; thence North 78 degrees 24' East 122 feet to an iron pin on the Westerly boundary of said Highway; thence North 11 degrees 36' West along said boundary 200 feet, more or less, to the point of beginning.

Tax Account No: 3809 007CO 05800  
3809 007CO 05900

Together with a perpetual easement and right of way over the following described strip of land:

Beginning at a point in the Northwest quarter of the Southwest quarter of Section 7, Township 38 South, Range 9, East of the Willamette Meridian, Klamath County, Oregon, which point is on the Westerly right of way boundary of the presently located Dalles-California Highway, which point of beginning is South 89 degrees 49' East 799 feet to the Westerly boundary of said highway, and thence South 11 degrees 36' East along said Westerly boundary a distance of 956.29 feet from the one-quarter corner common to said Section 7, and Section 12, Township 38 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, said point of beginning being the Northeast corner of that property described in Deed Volume 294, page 426, Records of Klamath County; thence South 78 degrees 24' West 27 feet; thence North 11 degrees 36' West parallel to said Highway 90 feet; thence North 78 degrees 24' East 27 feet to the Highway boundary line; thence South 11 degrees 36' East along said Highway boundary line to the point of beginning.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of S. Valley State Bank the 18th day  
of Jan. A.D. 19 90 at 11:54 o'clock A M., and duly recorded in Vol. M90  
of Mortgages on Page 1201  
By Evelyn Biehn County Clerk  
Pauline Muller

FEE \$18.00