

AFTER RECORDING, RETURN TO:

The Nature Conservancy
2060 Broadway, Suite 230
Boulder, CO 80302
Attn: Patrick Ramos

MTC 38822KR

**TRUST DEED, ASSIGNMENT OF RENTS AND LEASES,
SECURITY AGREEMENT AND FIXTURE FILING**

THIS TRUST DEED, ASSIGNMENT OF RENTS AND LEASES, SECURITY AGREEMENT AND FIXTURE FILING is dated this 19th day of July, 1996, between **THE NEW EARTH COMPANY**, an Oregon corporation, whose address is 1300 Main Street, Klamath Falls, Oregon 97601-5914 ("Grantor") and **THE NATURE CONSERVANCY**, a nonprofit District of Columbia corporation, whose address is 1815 North Lynn Street, Arlington, Virginia 22209 ("Beneficiary"), and **AMERITITLE** ("Trustee"), whose address is 222 South Sixth Street, Klamath Falls, Oregon 97601.

Grantor has an obligation, pursuant to that certain Participation Agreement dated July 19, 1996, between Grantor, Beneficiary and PacifiCorp to pay Beneficiary the sum of \$675,000 on certain terms and conditions. Such amount will be repayable according to the terms of a promissory note given to evidence such obligation, dated the same as this Trust Deed, under which the final payment of principal will be due on July 19, 2005. The promissory note, and any note or notes given in renewal, modification, substitution or addition to the promissory note originally issued, is referred to as the "Note."

The term "Obligation" as used in this Trust Deed shall mean (a) the principal payable under the Note, (b) any amounts expended or advanced by Beneficiary to discharge obligations of Grantor or expenses incurred by Beneficiary or Trustee to enforce obligations of Grantor, as permitted under this Trust Deed, with interest thereon as provided below, and (c) the payment and performance of all amounts, at the interest rate specified in Section 15.4 below, required of Grantor to be paid or performed by Grantor under that Participation Agreement and/or under that Farm Lease dated the same date as this Trust Deed by and among Grantor, Beneficiary and PacifiCorp and further described in attached Exhibit A (respectively, the "Participation Agreement" and the "Lease") to the extent Beneficiary specifically elects by written notice to Grantor to include any such amounts or performance of any such obligations in the Obligation.

FOR VALUE RECEIVED, Grantor conveys to Trustee in trust with power of sale the following, subject to PacifiCorp's first priority Trust Deed, Assignment of Rents and Leases, Security Agreement and Fixture Filing of even date on such Property:

(1) Grantor's leasehold interest in the real property in Klamath County, Oregon described on the attached Exhibit A, together with all existing and subsequently erected or affixed improvements and fixtures, and all rights and appurtenances thereto, including without limitation all rights of way for ingress and egress to and from such property, whether now existing or hereafter created, across any neighboring land (the "Real Property").

(2) Grantor's interest in the Lease together with any extensions or renewals thereof.

(3) All property described in attached Exhibit B (the "Personal Property").

(4) All water, water rights, ditches and ditch rights, any permits, licenses, certificates or shares of stock evidencing any such water or ditch rights, and any such rights acquired in the future, which entitle Grantor to use water for any purpose upon the Real Property.

(5) All right, title and interest of Grantor in and to any wetland mitigation credits now or hereafter attributable to the Real Property.

Grantor presently assigns to Beneficiary all of Grantor's right, title and interest in and to any interest of Grantor as vendor of any land sale contract of such property and all rents, revenues, income, issues and profits (the "Income") from the Lease, Real Property and Personal Property, including without limitation those subleases described in attached Exhibit C, whether now or hereafter due.

Grantor grants Beneficiary a security interest in the Lease, the Personal Property and the Income.

The real and personal property described above is referred to as the "Property."

This Trust Deed, the assignment of the Income and security interest are given to secure payment of the Obligation and performance of all obligations of Grantor under this Trust Deed and are given and accepted on the following terms and conditions, which Grantor will promptly and faithfully observe and perform:

1. PAYMENT AND PERFORMANCE

Grantor shall pay to Beneficiary promptly when due all amounts, payment of which is secured by this Trust Deed, and shall strictly perform all obligations imposed upon Grantor by this Trust Deed.

2. POSSESSION AND MAINTENANCE OF THE PROPERTY

2.1 **Possession.** Until in default, Grantor may remain in possession and control of and operate and manage the Property and collect the Income from the Property.

2.2 **Duty to Maintain.** Grantor shall maintain the Property in first class condition and promptly perform all repairs and maintenance necessary to preserve its value. The Real Property shall be cultivated in accordance with good husbandry practices and all farming and ranching operations (if any) shall be conducted in such a manner as to prevent deterioration of the Property.

2.3 **Nuisance, Waste.** Grantor shall not conduct or permit any nuisance and shall not commit or suffer any strip or waste on the Property.

2.4 **Alteration or Removal of Improvements.** Grantor shall not alter, demolish or remove any Improvements from the Property without the prior written consent of Beneficiary. "Improvements" shall include all existing and future buildings, structures and other fixtures and improvements now or hereafter installed in or attached to the Real Property, including but not limited to fences, corrals, scales, mobile homes, silos, storage facilities and irrigation equipment.

2.5 **Beneficiary's Right to Enter.** Beneficiary and its agents and representatives may enter upon the Property at all reasonable times to attend to Beneficiary's interest and to inspect the Property and to inspect any and all financial and other records relating to Grantor's operations on the Property.

2.6 **Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances and regulations of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Beneficiary's interest in the Property is not jeopardized.

2.7 **Duty to Protect.** Grantor shall do all other acts, in addition to those set forth in this Trust Deed, that from the character and use of the Property are reasonably necessary to protect and preserve the security.

2.8 **Water Rights.** All existing water rights benefiting the Property shall be maintained by Grantor and applied to beneficial use so as to maintain the validity and priority of such rights.

3. PROVISIONS REGARDING LEASE

3.1 Grantor's Covenants. Grantor will:

(a) Strictly and punctually pay and perform all obligations of Grantor as lessee under the Lease;

(b) Promptly upon, but in no event later than ten (10) business days after learning thereof, but in any event, not less than ten (10) days prior to the expiration of any applicable grace period, notify Beneficiary in writing of the occurrence of any default under the Lease or the receipt of any notice or communication from the lessor asserting a default under the Lease;

(c) Not assign, agree to assign, sell or transfer any interest in or grant any security interest or lien upon the Lease or Grantor's interest thereunder; and

(d) Not terminate, amend or modify the Lease without the prior written consent of Beneficiary.

3.2 Performance by Beneficiary. Grantor authorizes Beneficiary, upon a default under this Trust Deed, and upon Beneficiary's election to exercise its rights hereunder, to enforce Grantor's rights under the Lease and to receive any performance of landlord thereunder. Grantor authorizes landlord to accept this assignment and authorizes and directs landlord, upon such default by Grantor and election by Beneficiary, to perform as required of landlord under the Lease directly to Beneficiary.

4. TAXES AND LIENS

4.1 Payment. Grantor shall pay when due its share of all taxes and assessments levied against or on account of the Property in accordance with the Lease, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Beneficiary under this Trust Deed, except for the lien of taxes and assessments not due, except as otherwise provided in Section 4.2.

4.2 Right to Contest. Grantor may withhold payment of any tax, assessment or claim in connection with a good faith dispute over the obligation to pay, so long as Beneficiary's interest in the Property is not jeopardized. If the Property is subjected to a lien which is not discharged within 15 days, Grantor shall deposit with Beneficiary cash, a sufficient corporate surety bond or other security satisfactory to Beneficiary in an amount sufficient to discharge the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest proceedings, Grantor will defend itself and Beneficiary and will name Beneficiary as an additional obligee

under any surety bond, and Grantor shall satisfy any final adverse judgment before enforcement against the Property.

4.3 **Evidence of Payment.** Grantor shall promptly furnish evidence of payment of taxes and assessments to Beneficiary on its demand and shall authorize the appropriate county official to deliver to Beneficiary at any time a written statement of the taxes and assessments against the Property.

4.4 **Notice of Construction.** Grantor shall notify Beneficiary at least 15 days before any work is commenced, any services are furnished or any materials are supplied to the Property if a construction lien could be asserted on account of the work, services or materials and the cost exceeds \$25,000. On Beneficiary's request, Grantor will promptly furnish advance assurances satisfactory to Beneficiary that Grantor can and will pay the cost of such improvements.

4.5 **Farm Classification.** Grantor agrees to maintain the farm use land classification of the Property on the tax rolls and not to allow any act or omission which would disqualify the Property for assessment as farm land.

5. **PROPERTY DAMAGE INSURANCE**

5.1 **Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement cost basis covering all improvements on the Property, in an amount sufficient to avoid application of any coinsurance clause and with loss payable to Beneficiary. Policies shall be written in amounts, in form, on terms and with companies reasonably acceptable to Beneficiary. Grantor shall deliver to Beneficiary certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of 10 days' written notice to Beneficiary.

5.2 **Application of Proceeds.** Grantor shall promptly notify Beneficiary of any loss or damage of the Property. Beneficiary may make proof of loss if Grantor fails to do so within 15 days of the casualty. Beneficiary may, at its election, apply the proceeds to the reduction of the Obligation or the restoration and repair of the Property. If Beneficiary elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Beneficiary. Upon satisfactory proof of such expenditure, Beneficiary shall pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration. Any proceeds which have not been paid out within 180 days after their receipt and which Beneficiary has not committed to the repair or restoration of the Property shall be used to prepay first accrued interest and then principal of Grantor's Obligation. If Beneficiary holds any proceeds after payment in full of the Obligation, such proceeds shall be paid to Grantor.

5.3 **Unexpired Insurance at Sale.** Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Trust Deed at any trustee's sale or any foreclosure sale of the Property.

6. WARRANTIES OF GRANTOR

6.1 **Title.** Grantor warrants that it is the owner of the lessee's interest in the Lease, free of all liens and encumbrances other than those set forth in the attached Exhibit D.

6.2 **Defense of Title.** Subject to the exceptions in the paragraph above, Grantor warrants and will forever defend the title against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Beneficiary or Trustee under this Trust Deed, Grantor shall defend the action at its expense.

6.3 **Not Residential Trust Deed.** Grantor warrants that this Trust Deed is not and will not at any time constitute a "residential trust deed" (as that term is defined in ORS 86.705(3) or its successor statutes). Grantor warrants that Grantor is engaging in this transaction exclusively for business, commercial or investment purposes.

7. CONDEMNATION

7.1 **Application of Net Proceeds.** If all or any part of the Property is condemned, Beneficiary may elect to require that all or any portion of the net proceeds of the condemnation be applied on the Obligation. The "net proceeds" shall mean the total amount available after payment of all reasonable costs, expenses, and attorneys' fees necessarily paid or incurred by Grantor, Beneficiary, and Trustee in connection with the taking by condemnation. Sale of all or any part of the Property to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power shall be treated as a taking by condemnation to which this Section shall apply.

7.2 **Proceedings.** If any proceedings in condemnation are filed, Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Beneficiary shall be entitled, at its option, to commence, appear in and prosecute in its own name, any action or proceeding, or to make any compromise or settlement, in connection with such taking or damage, and to obtain all compensation, awards or other relief therefore to which Grantor may be entitled.

8. IMPOSITION OF TAX BY STATE

8.1 **State Taxes Covered.** The following shall constitute state taxes to which this Section applies:

- (a) A specific tax upon trust deeds or upon all or any part of the obligation secured by a trust deed.
- (b) A specific tax on a grantor which the taxpayer is authorized or required to deduct from payments on the obligation secured by a trust deed.
- (c) A tax on a trust deed chargeable against the beneficiary or the holder of the note secured.
- (d) A specific tax on all or any portion of the obligation or on payments of principal and interest made by a grantor.

8.2 **Remedies.** If any state tax to which this Section applies is enacted subsequent to the date of this Trust Deed, this shall have the same effect as a default, and Beneficiary may exercise any or all of the remedies available to it in the event of a default unless the following conditions are met:

- (a) Grantor may lawfully pay the tax or charge imposed by the state tax, and
- (b) Grantor pays or offers to pay the tax or charge within 30 days after notice from Beneficiary that the tax law has been enacted.

9. **POWERS AND OBLIGATIONS OF TRUSTEE**

9.1 **Powers of Trustee.** In addition to all powers of Trustee arising as a matter of law, Trustee shall have the power to take the following actions with respect to the Property upon the request of Beneficiary and Grantor:

- (a) Join in preparing and filing a map or plat of the Property, including the dedication of streets or other rights in the public.
- (b) Join in granting any easement or creating any restriction on the Property.
- (c) Join in any subordination or other agreement affecting this Trust Deed or the interest of Beneficiary under this Trust Deed.
- (d) Reconvey, without warranty, all or any part of the Property.

9.2 **Obligations to Notify.** Trustee shall not be obligated to notify any other party of a pending sale under any other trust deed or lien, or of any action or proceeding in which Grantor, Beneficiary or Trustee shall be a party, unless the action or proceeding is brought by Trustee.

10. TRANSFER BY GRANTOR

10.1 Prohibition of Transfer Without Consent. Grantor shall not sell, agree to sell, assign, convey, subcontract, hypothecate, encumber or otherwise transfer any part or all of the Property or any interest in the Property, without the prior written consent of Beneficiary, which consent Beneficiary will not unreasonably withhold. If Grantor or a prospective transferee applies to Beneficiary for consent to a transfer, Beneficiary may require such information as may be reasonably necessary for Beneficiary to assess the prospective transferee's prior business experience, reputation and financial ability to perform Grantor's obligations under this Trust Deed. Without limiting the generality of the foregoing, the occurrence at any time of any of the following events, without Beneficiary's prior written consent, shall be deemed a transfer of title to the Property:

(a) Any sale, conveyance, lease, assignment or other transfer of, or the grant of a security interest in, all or any part of the legal or equitable title to the Property.

(b) Any conveyance, grant or other transfer of the legal or equitable title to the Property which occurs by operation of law, by trustees in bankruptcy, executors or estate administrators or executors, or by or through a bankruptcy court.

10.2 Effect of Consent. Consent by Beneficiary to one transfer shall not constitute a consent to other transfers or a waiver of this section. No transfer by Grantor shall relieve Grantor of liability for payment of the Obligation. Following a transfer, Beneficiary may agree to any extension of time for payment or modification of the terms of this Trust Deed or the Note or waive any right or remedy under this Trust Deed or the Note without relieving Grantor from liability. Grantor waives notice, presentment, and protest with respect to the Obligation.

11. SECURITY AGREEMENT; SECURITY INTEREST

11.1 Security Agreement. This instrument shall constitute a security agreement with respect to the Income, the Lease and the Personal Property included in the description of the Property.

11.2 Security Interest. Upon request by Beneficiary, Grantor shall execute financing statements and take whatever other action is requested by Beneficiary to perfect and continue Beneficiary's security interest in the Income and personal property. Grantor hereby appoints Beneficiary Grantor's attorney in fact for the purpose of executing any documents necessary to perfect or continue the security interest granted therein. Beneficiary may file copies or reproductions of this Trust Deed as a financing statement at any time and without further authorization from Grantor. Grantor will reimburse Beneficiary for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor

shall assemble the personal property and make it available to Beneficiary within three days after receipt of written demand from Beneficiary.

11.3 **Fixture Filing.** This instrument constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the county in which the Property is located with respect to any and all fixtures included within the term Property as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

12. RECONVEYANCE ON FULL PERFORMANCE

If Grantor pays all of the Obligation when due and otherwise performs all the obligations imposed upon Grantor under this Trust Deed, Beneficiary shall execute and deliver to Trustee a request for full reconveyance and shall execute and deliver to Grantor suitable statements of termination of any financing statement on file. The reconveyance and filing fees shall be paid by Grantor.

13. DEFAULT

The following shall constitute events of default:

(a) Failure of Grantor to pay or perform any portion of the Obligation when it is due after ten (10) days' written notice demanding payment or performance.

(b) Failure of Grantor within the time required by this Trust Deed to make any payment for taxes, insurance or any other payment necessary to prevent filing of or discharge of any lien (or within such time discharge or bond such lien in the manner permitted in Section 4.2 above).

(c) Transfer or agreement to transfer any part or interest in the Property without the prior written consent of Beneficiary, as required under Section 10 above.

(d) Dissolution, termination of existence, insolvency on a balance sheet basis or business failure of Grantor; the commencement by Grantor of a voluntary case under the federal bankruptcy laws or under any other federal or state law relating to insolvency or debtor's relief; the entry of a decree or order for relief against Grantor in an involuntary case under the federal bankruptcy laws or under any other applicable federal or state law relating to insolvency or debtor's relief; the appointment or the consent by Grantor to the appointment of a receiver, trustee, or custodian of Grantor or of any of Grantor's property; an assignment for the benefit of creditors by Grantor; the making or suffering by Grantor of a fraudulent transfer under applicable

federal or state law; concealment by Grantor of any of its property in fraud of creditors; the making or suffering by Grantor of a preference within the meaning of the federal bankruptcy law; the imposition of a lien through legal proceedings or restraint upon any of the property of Grantor which is not discharged or bonded in the manner permitted by Section 4.2 above; or Grantor's failure generally to pay its debts as such debts become due. The events of default in this paragraph shall apply and refer to Grantor and to each of the individuals or entities that are collectively referred to as "Grantor."

(e) Failure of Grantor to perform any other obligation under this Trust Deed within 30 days after receipt of written notice from Beneficiary specifying the nature of the default or, if the default cannot be cured within 30 days, failure within such time to commence and pursue curative action with reasonable diligence. No notice of default and no opportunity to cure shall be required if during the prior 12 months Beneficiary has already sent a notice to Grantor concerning default in performance of the same obligation.

14. RIGHTS AND REMEDIES ON DEFAULT

14.1 **Remedies.** Upon the occurrence of any event of default and at any time thereafter, Trustee or Beneficiary may exercise any one or more of the following rights and remedies:

(a) The Trustee shall have the right to foreclose by notice and sale, and Beneficiary shall have the right to foreclose by judicial foreclosure, in either case in accordance with applicable law.

(b) If this Trust Deed is foreclosed by judicial procedure, Beneficiary will be entitled to a judgment which will provide that if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for any amount by which the unpaid balance of the obligations secured by this Trust Deed exceeds the net sale proceeds payable to Beneficiary.

(c) With respect to all or any part of the Property that constitutes personalty, Beneficiary shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

(d) Beneficiary shall have the right, without notice to Grantor, to take possession of the Property and collect the Income, including amounts past due and unpaid, and apply the net proceeds, over and above Beneficiary's costs, against the Obligation. In furtherance of this right, Beneficiary may require any tenant or other user to make payments of rent or use fees directly to Beneficiary. If the Income is collected by Beneficiary, then Grantor

irrevocably designates Beneficiary as Grantor's attorney in fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Beneficiary in response to Beneficiary's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Beneficiary may exercise its rights under this paragraph either in person, by agent or through a receiver.

(e) Beneficiary shall have the right to have a receiver appointed to take possession of any or all of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, to collect the Income from the Property and apply the proceeds, over and above cost of the receivership, against the Obligation. The receiver may serve without bond if permitted by law. Beneficiary's right to the appointment of a receiver shall exist whether or not apparent value of the Property exceeds the Obligation by a substantial amount. Employment by Beneficiary shall not disqualify a person from serving as a receiver.

(f) In the event Grantor remains in possession of the Property after the Property is sold as provided above or Beneficiary otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at will of Beneficiary or the purchaser of the Property and shall pay a reasonable rental for use of the Property while in Grantor's possession.

(g) Trustee and Beneficiary shall have any other right or remedy provided in this Trust Deed, the Note or any other instrument delivered by Grantor in connection therewith, or available at law, in equity or otherwise.

14.2 Rights of Receiver or Mortgagee-in-Possession. Upon taking possession of all or any part of the Property, the receiver or Beneficiary may:

(a) Use, operate, manage, control and conduct business on the Property and make expenditures for all maintenance and improvements as in its judgment are proper;

(b) Collect the Income from the Property and apply such sums to the expenses of use, operation, and management;

(c) At Beneficiary's option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Beneficiary deems appropriate.

If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Beneficiary (if Beneficiary, in its sole discretion, agrees to lend) or otherwise, or Beneficiary may borrow or advance, such sums as the receiver or Beneficiary may deem necessary for the purposes stated in this paragraph. The amounts borrowed or advanced shall bear interest from the date of expenditure until repaid at the same interest rate as provided in Section 15.4 below. Such sums shall become a part of the Obligation secured by this Trust Deed and shall be payable by Grantor on demand.

14.3 Sale of the Property. In exercising its rights and remedies, the Trustee or Beneficiary may cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Beneficiary may bid at any public sale on all or any portion of the Property.

14.4 Notice of Sale. Beneficiary shall give Grantor reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or other intended disposition of the personal property is to be made. Reasonable notice shall mean notice given at least 10 days before the time of the sale or disposition.

14.5 Waiver; Election of Remedies. A waiver by either party of a breach of a provision of this Trust Deed shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. Election by Beneficiary to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Beneficiary under this Trust Deed are cumulative and not exclusive. An election to make expenditures or take action to perform an obligation of Grantor shall not affect Beneficiary's right to declare a default and exercise its remedies under this Trust Deed.

15. MISCELLANEOUS

15.1 Time of Essence. Time is of the essence of this Trust Deed.

15.2 Binding Upon Successors and Assigns. Subject to the limitations stated in this Trust Deed on transfer of Grantor's interest and subject to the provisions of applicable law with respect to successor trustees, this Trust Deed shall be binding upon and inure to the benefit of the parties, their successors and assigns.

15.3 Security Agreement. In construing this Trust Deed, the term "Trust deed" shall encompass the term "security agreement" when the instrument is being construed with respect to any personal property.

15.4 Expenditure by Beneficiary. If Grantor fails to comply with any provision of this Trust Deed, Beneficiary may elect to take the required action on Grantor's behalf, and any amount that Beneficiary expends in so doing shall be added to the Obligation. Amounts so added shall be payable on demand with interest from the date of expenditure at the Default Rate under the Note, but not in any event at a rate higher than the maximum rate permitted

by law. Such action by Beneficiary shall not constitute a cure or waiver of the default or any other right or remedy which Beneficiary may have on account of Grantor's default.

WARNING

Unless you (Grantor) provide us (Beneficiary) with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effect date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

15.5 Notices. Any notice under this Trust Deed shall be in writing and shall be effective when either delivered in person or, if mailed, shall be deemed effective on the second day after deposited as registered or certified mail, postage prepaid, addressed to the party at the address stated in this Trust Deed. Any party may change its address for notices by written notice to the other.

15.6 Invalid Provisions to Affect No Others. If any of the provisions contained in the Note or this Trust Deed shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions in this Trust Deed and the Note shall not be affected.

15.7 Changes in Writing. This Trust Deed and any of its terms may only be changed, waived, discharged or terminated by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement subsequently made by Grantor or Beneficiary relating to this Trust Deed shall be superior to the rights of the holder of any intervening lien or encumbrance.

15.8 Applicable Law. This Trust Deed has been executed and delivered to Beneficiary in the State of Oregon, and all payments are to be made to Beneficiary in the State of Oregon. The law of the State of Oregon shall be applicable for the purpose of

construing and determining the validity of this Trust Deed and, to the fullest extent permitted by the law of any state in which any of the Property is located, determining the rights and remedies of Beneficiary on default.

15.9 **Joint and Several Liability.** If Grantor consists of more than one person or entity, the obligations imposed upon Grantor under this Trust Deed shall be joint and several.

15.10 **Exhibits.** The following exhibits are attached to this Trust Deed and are incorporated herein by reference:

Exhibit A: Real Property
Exhibit B: Personal Property
Exhibit C: Subleases
Exhibit D: Permitted Encumbrances

UNDER OREGON LAW, MOST AGREEMENTS, PROMISES AND COMMITMENTS MADE BY BENEFICIARY AFTER OCTOBER 3, 1989 CONCERNING LOANS AND OTHER CREDIT EXTENSIONS WHICH ARE NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES OR SECURED SOLELY BY THE BORROWER'S RESIDENCE MUST BE IN WRITING, EXPRESS CONSIDERATION AND BE SIGNED BY BENEFICIARY TO BE ENFORCEABLE.

GRANTOR:

THE NEW EARTH COMPANY,
an Oregon corporation

By: Robert D. Longo
Printed Name: Robert D. Longo
Title: CFO
Date: 7/19/96

21830

STATE OF Oregon)
County of Klamath) ss.

This instrument was acknowledged before me on July 19th, 1996, by
Robert B. Long the Chief Financial Officer of The New Earth
Company, an Oregon corporation, on behalf of such corporation.



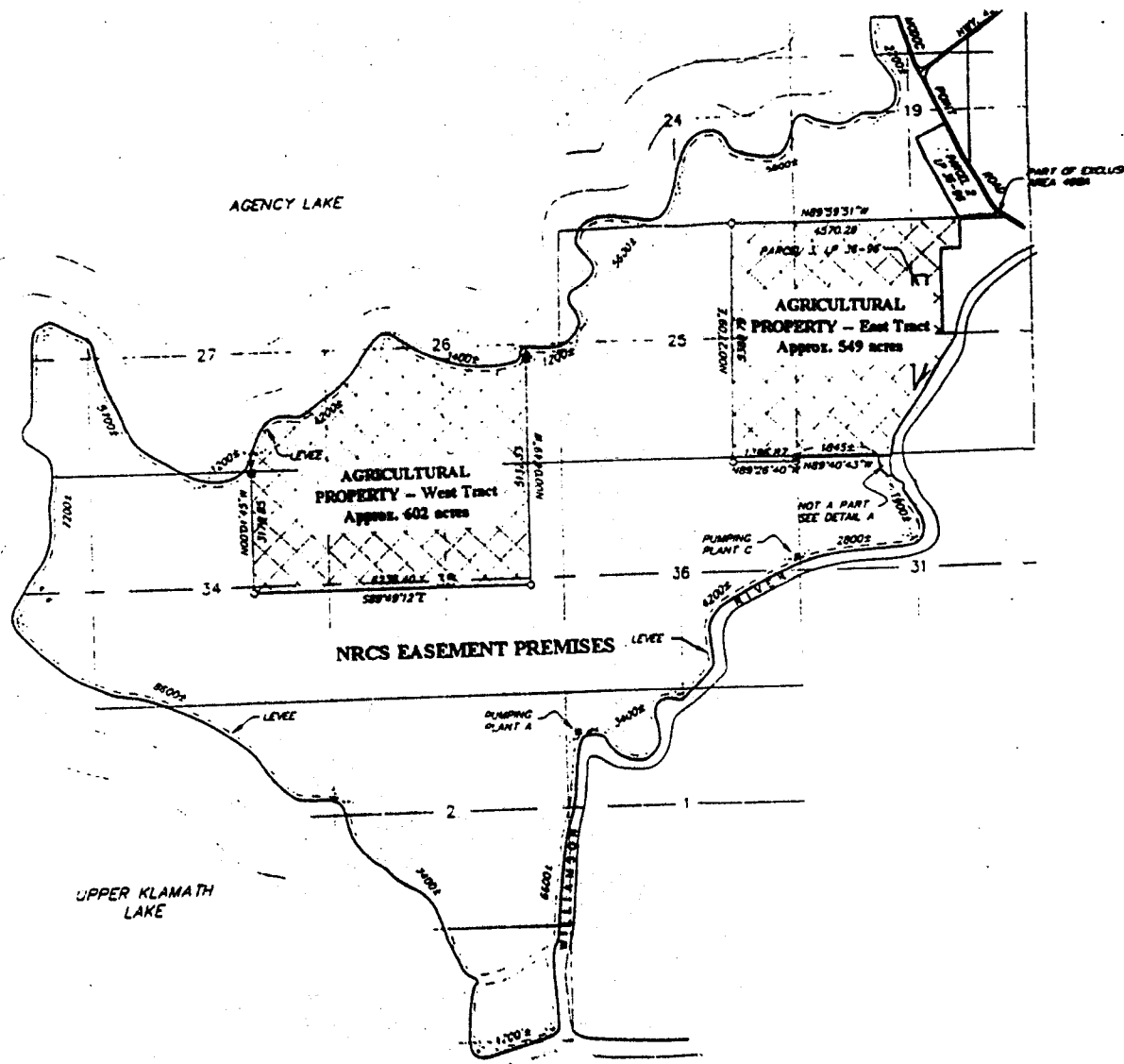
Kristi L. Redd
Notary Public for OREGON
My commission expires: 11/16/99

EXHIBIT A

Real Property Description

All of Grantor's undivided 32.85 percent leasehold interest arising under that farm lease dated July 19, 1996, by and among Grantor, Beneficiary and The Nature Conservancy, covering the land described below or in the subsequent pages of this Exhibit A.

EXHIBIT A
(Exhibit A-2 of UCC-1)
AGRICULTURAL PROPERTY
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The "Agricultural Property" and the "NRCS Easement Premises" are located within:
 Sections 19, 30, 31 of T35S, R7E, W.M.;
 Sections 24, 25, 26, 27, 28, 33, 34, 35 and 36 of T35S, R71/2E, W.M.; and,
 Sections 1, 2, 3, 4, 11 and 12 of T36S, R71/2E, W.M.

EXHIBIT A
(Exhibit A-2 of UCC-1)
AGRICULTURAL PROPERTY
Page 2 of 5

EXHIBIT E
DESCRIPTION FOR EXCLUSION PARCEL 696A

A parcel of land situated in Sections 26, 27, 34 and 35, Township 35 South, Range 07 1/2 East of the Willamette Meridian, County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a point on the mean high waterline of Agency Lake, from which the Northeast corner of Section 19 Township 35 South, Range 07 East of the Willamette Meridian bears North 54° 24' 22" East 13892.67 feet; thence from said point of beginning South 00° 04' 49" East 138.68 feet to a 5/8" pin; thence South 00° 04' 49" East 5132.33 feet to a 5/8" pin; thence North 89° 49' 12" West 6236.40 feet to a 5/8" pin; thence North 00° 01' 45" West 2730.27 feet to a 5/8" pin; thence continuing North 00° 01' 45" West 415.17 feet to the mean high waterline of Agency Lake; thence along the mean high waterline of said Agency Lake Northeasterly 6600 feet more or less to the point of beginning.

Containing 602 acres, more or less.

EXHIBIT A
(Exhibit A-2 of UCC-1)
AGRICULTURAL PROPERTY
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EXHIBIT F
DESCRIPTION FOR EXCLUSION PARCEL 498A

A parcel of land situated in Sections 19, 30 and 31, Township 35 South, Range 07 East, and Sections 24, 25 and 36, Township 35 South, Range 07 1/2 East of the Willamette Meridian, County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a point on the South line of said Section 30 and the mean high waterline on the West bank of the Williamson River, from which the Northeast corner of said Section 19 bears North 16° 21' 49" East 11074.65 feet more or less; thence from said point of beginning along the South line of said Section 30 and the North line of M92, page 27987, North 89° 53' 45" West 697.10 feet, more or less, to the Northwest corner of said M92, page 27987, thence North 89° 37' 01" West 1437.39 feet, more or less, to a 5/8" pin; thence South 00° 06' 41" West 94.15 feet to a 5/8" pin; thence North 89° 26' 40" West 1396.87 feet to a 5/8" pin; thence North 00° 27' 09" East 5389.79 feet to a 5/8" pin; thence South 89° 59' 51" East 4570.29 feet to a 5/8" pin; thence North 89° 16' 46" East 490.97 feet; thence North 24° 56' 14" West 4.96 feet to a 5/8" pin; thence North 85° 34' 54" East 334.54 feet to a 5/8" pin; thence South 89° 56' 30" East 477.35 feet, to a 5/8" pin; thence North 02° 27' 07" West 107.15 feet to a 5/8" pin and the Westerly right-of-way of Modoc Point Road; thence along the Westerly right-of-way of said Modoc Point Road, along the arc of a 602.96 feet radius curve to the left, chord bears South 48° 53' 47" East 168.75 feet, 169.31 feet to a 5/8" pin; thence South 56° 56' 26" East 103.95 feet more or less to the North line of Section 30 and the North line of Government Lot 2; thence along the North line of said Government Lot 2 North 89° 56' 39" West 747.90 feet more or less to the Northwest corner of said Government Lot 2; thence along the North line of Government Lot 3 North 89° 56' 39" West 250.00 feet; thence Southerly 250.00 feet from and parallel to the East line of said Lot 3, 660.00 feet more or less to the North line of Government Lot 8; thence along the North line of said Government Lot 8 Westerly 410.00 feet more or less to the Northeast corner of the West 660.00 feet of said Government Lot 8; thence along the East line of the West 660.00 feet of Government Lots 8, 13 and 18 Southerly 1980.00 feet more or less to the South line of said Government Lot 18; thence along the South line of said Government Lot 18 Easterly 283.8 feet more or less to the mean high waterline on the West bank of the Williamson River; thence along the said mean high waterline Southwesterly 3000 feet more or less to the point of beginning.

EXCEPTING THEREFROM that Parcel described in Exhibit H and that Parcel described in Exhibit C.

Containing 549 acres, more or less.

EXHIBIT A
(Exhibit A-2 of UCC-1)
AGRICULTURAL PROPERTY
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EXHIBIT C
DESCRIPTION FOR 15.57 ACRE PARCEL

A parcel of land situated in Section 30, Township 35 South, Range 7 East of the Willamette Meridian, County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a 5/8" pin from which the section corner common to Sections 17, 18, 19 and 20, Township 35 South, Range 7 East of the Willamette Meridian bears North 19° 19' 25" East 6975.91 feet; thence South 89° 46' 55" West 318.72 feet to a 5/8" pin; thence South 00° 05' 55" West 2558.77 feet to a 5/8" pin; thence North 31° 37' 33" East 339.86 feet to a 5/8" pin; thence 339.14 feet along the arc of a 644.02 foot radius curve to the left, the long chord of which bears North 16° 32' 23" East 335.23 feet to a 5/8" pin; thence North 1° 27' 14" East 1949.85 feet to the point of beginning.

TOGETHER WITH those easements described in Exhibits G and H.

Containing 15.57 acres, more or less.

EXHIBIT A
(Exhibit A-2 of UCC-1)
AGRICULTURAL PROPERTY
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EXHIBIT H
DESCRIPTION FOR EASEMENT
FOR 15.57 ACRE PARCEL

An easement for ingress and egress and public utilities being more particularly described as follows:

Commencing at a 5/8" iron pin on the West right-of-way line of State Highway 427 from which the section corner common to Sections 17, 18, 19 and 20 bears North 8° 53' 01" East 5207.80 feet; thence South 2° 27' 07" East 107.15 feet to an iron pin; thence North 89° 56' 30" West 477.35 feet to an iron pin; thence South 85° 34' 34" West 334.55 feet to an iron pin; thence South 24° 56' 14" East 4.96 feet to the true point of beginning for this description; thence South 89° 16' 46" West 490.97 feet; thence 200.50 feet along the arc of a 130.00 foot radius curve to the left, the long chord of which bears South 45° 06' 06" West 181.21 feet; thence South 00° 54' 49" West 1166.58 feet; thence South 89° 46' 55" West 62.03 feet to an iron pin; thence South 1° 27' 14" West 1949.85 feet to an iron pin; thence 339.14 feet along the arc of a 644.02 foot radius curve to the right, the long chord of which bears South 16° 32' 23" West 335.23 feet, to an iron pin; thence South 31° 37' 33" West 339.86 feet to an iron pin; thence South 0° 05' 55" West 233.31 feet; thence North 31° 37' 35" East 538.64 feet; thence 403.39 feet along the arc of a 766.02 foot radius curve to the left, the long chord of which bears North 16° 32' 23" East 398.74 feet, thence North 01° 27' 11" East 1952.67 feet; thence North 00° 54' 49" East 1166.13 feet; thence 107.96 feet along the arc of a 70.00 foot radius curve to the right, the long chord of which bears North 45° 06' 06" East 97.57 feet; thence North 89° 17' 22" East 510.82 feet; thence North 30 feet, more or less, to a point on the North line of Government Lot 3 of Section 30, Township 35 South, Range 7 East of the Willamette Meridian; thence North 34° 37' 48" West 36.26 feet to the point of beginning.

TOGETHER WITH that easement described in Exhibit G.

EXHIBIT B

Personal Property Description

All right, title and interest of Grantor in and to the following:

(1) all barns, storage sheds, structures, irrigation equipment and pump stations located on the Real Property, all furnishings, fixtures (including trade fixtures), appliances, furniture, supplies, equipment, inventory, equipment used for the production of water on the Real Property or for the irrigation or drainage thereof, all surface and subsurface irrigation equipment, pipe, canals and ditches presently located on the Real Property and used in connection with the Real Property, including without limitation three wheel lines per 100 acres complete with mainline in good repair, together with the nonexclusive right to use for the delivery of water to the Real Property all subsurface irrigation equipment, pipe, canals and ditches owned or controlled by The Nature Conservancy on property adjacent to the Real Property;

(2) all other tangible and intangible personal property, including (without limitation) accounts (including accounts receivable and contract rights, whether or not earned by performance), chattel paper, instruments, documents, and general intangibles from and relating to any leases, tenancies, occupancy or uses of the property and any lease or other use agreement (if any should ever be considered personal property);

whether now or subsequently located on or used in connection with the Real Property, whether now owned or hereafter acquired, and whether now existing or hereafter arising, and all accessions, parts, additions, replacements and substitutions for any of such property, and all proceeds (including insurance proceeds) from the sale or other disposition of any of such property.

EXHIBIT C

Agricultural Subleases

1. Agricultural Lease dated February 1, 1992 between Tulana Farms as Landlord and Agency Lake Farms, Inc. as Tenant.
2. Letter from Tulana Farms dated December 7, 1994 to Agency Lake Farms extending the Agricultural Lease dated February 12, 1992 until the earlier of December 31, 1997 or completion of the 1997 harvest.
3. Agricultural Lease dated April 10, 1995 between Tulana Farms as Landlord and Cheyne Brothers as Tenant.
4. Agricultural Lease dated February 18, 1994 between Tulana Farms as Landlord and Tim Wolf as Tenant.
5. Letter from Tulana Farms dated December 14, 1995 to Tim Wolf extending the lease dated February 18, 1994 to reflect the 1996 growing season.
6. Letter from Tulana Farms to Tim Wolf dated January 17, 1996 amending the rent to be paid for first and second cut of alfalfa (the letter was not signed by Tim Wolf).
7. Agricultural Lease dated April 5, 1995 between Tulana Farms as Landlord and Ron Spears and Jim and Trudi Evans as Tenant.
8. Letter from Tulana Farms dated January 4, 1996 amending the Agricultural Lease dated April 5, 1995 between Tulana Farms and Ron Spears et al. amending the termination date to December 31, 1996 or the date on which the harvesting of the 1996 year crop is completed.
9. Agricultural Lease dated January 4, 1996 between Tulana Farms as Landlord and Duane Blackman dba Blackman Farms, Inc. as Tenant.

EXHIBIT D

Permitted Encumbrances

1. Matters disclosed in the 8th Supplemental Preliminary Title Report for Standard Coverage Policy (No. 36564-KR) issued by AmeriTitle on June 12, 1996, except Nos. 32-34.
2. NRCS Conservation Easement.
3. Any mortgages, trust deeds or other security instruments or undivided interests granted by the Conservancy to PacifiCorp or New Earth under the Participation Agreement that affect the Real Property.
4. Any leases, easements, licenses, permits or similar interests in Tulana Farms incidental to, and for the purpose of accomplishing, the management of Tulana Farms by the Conservancy that affect the Real Property.
5. The Lease.
6. The agricultural subleases described in the foregoing Exhibit C.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of AmeriTitle the 19th day
of July A.D., 19 96 at 3:53 o'clock PM., and duly recorded in Vol. M96,
of Mortgages on Page 21816.

FEE \$130.00

Bernetha G Letsch, County Clerk

By 