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IN THE CIRCUIT COURT FOR THE STATE OF OREGON BY \_\_\_\_\_  
FOR THE COUNTY OF KLAMATH

MODOC LUMBER CO., INC; AND  
THOMAS J. SHAW,

Plaintiffs,

vs.

UNION PACIFIC RAILROAD COMPANY;  
BURLINGTON NORTHERN AND SANTA  
FE RAILWAY; J.W. COPELAND YARDS,  
INC.; and also all persons or parties unknown  
claiming any right, title, lien, or interest in the  
property described herein,

Defendants.

Case No. 9800807 CV

DECREE QUIETING TITLE

THIS MATTER having come before the Court upon plaintiffs' Motion for Entry of  
Decree Quieting Title, and the Court having reviewed the file and the following pleadings:

- A. Complaint - Suit to Quiet Title;
- B. Default Judgment Pursuant to ORCP 67B Pertaining to the First, Sixth, and  
Seventh Causes of Action of Plaintiffs' Complaint;
- C. Plaintiffs' First Amended Complaint - Suit to Quiet Title;
- D. Defendant Burlington Northern and Santa Fe Railway Company's Disclaimer of  
Interest;
- E. Defendant Union Pacific Railroad Company's Answer to First Amended  
Complaint;

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1 F. Release and Settlement Agreement made by and between plaintiffs and defendant  
2 Union Pacific Railroad Company, which is attached to plaintiffs' Motion for Entry of Decree  
3 Quieting Title; and

4 G. Plaintiffs' Notice of Dismissal With Prejudice of the Fifth Cause of Action of  
5 Plaintiffs' Amended Complaint;  
6 finds as follows:

7 1. By virtue of defendant Burlington Northern and Santa Fe Railway Company's  
8 Disclaimer of Interest disclaiming any interest in the property described in plaintiffs' Complaint,  
9 plaintiffs are entitled to a Decree Quieting Title to the land described in plaintiffs' Complaint  
10 against defendant Burlington Northern and Santa Fe Railway Company.

11 2. By virtue of the Release and Settlement Agreement made by and between  
12 plaintiffs and Union Pacific Railroad Company, plaintiffs are entitled to the entry of a Decree  
13 Quieting Title to the land described in plaintiffs' Complaint from and against any interest of  
14 Union Pacific Railroad Company arising from the instruments described in the Third, Sixth,  
15 Ninth, and Eleventh Causes of Action of plaintiffs' Amended Complaint.

16 3. By virtue of the Release and Settlement Agreement made by and between  
17 plaintiffs and Union Pacific Railroad Company, Union Pacific Railroad Company is entitled to  
18 an Order Dismissing the Fifth Cause of Action of plaintiffs' Amended Complaint with prejudice.

19 NOW, THEREFORE, IT IS ADJUDGED AND DECREED AS FOLLOWS:

20 1. The Fifth Cause of Action of plaintiffs' Amended Complaint is hereby dismissed  
21 with prejudice;

22 2. Plaintiffs are declared to be the owners in fee simple of the real property  
23 described on Exhibit "A" attached hereto, but excluding the real property described on Exhibit  
24 "B" attached hereto, and is entitled to possession thereof free of any estate, title, claim, lien, or  
25 interest of defendants Union Pacific Railroad Company and Burlington Northern and Santa Fe  
26 Railway Company and also all persons and parties known or unknown claiming any right, title,

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1 lien, or interest in the real property described on Exhibit "A" arising under the following  
2 instruments:

3       A.     Deed dated October 25, 1926 and recorded in Book 72 at Page 504 of the Deed  
4 Records of Klamath County, Oregon, made by Harry W. Ackley and Edna I. Ackley and John S.  
5 Ackley to Central Pacific Railway Company, a Utah corporation;

6       B.     Grant of Right of Way dated September 14, 1932 and recorded in Book 99 at  
7 Page 77 of the Deed Records of Klamath County, Oregon, made by Ewauna Box Company to  
8 Great Northern Railway Company;

9       C.     Grant of Right of Way dated February 1, 1935 and recorded in Book 104 at Page  
10 243 of the Deed Records of Klamath County, Oregon, made by J. W. Copeland Yards, an  
11 Oregon corporation to Central Pacific Railway Company, a Utah corporation;

12       D.     Right of Way Deed recorded November 13, 1926 in Volume 72 at Page 533 of the  
13 Deed Records of Klamath County, Oregon, made by G. C. Lorenz and Katherine Lorenz to  
14 Central Pacific Railway Company;

15       E.     Right of Way Deed dated January 16, 1931 recorded in Volume 93 at Page 431 of  
16 the Deed Records of Klamath County, Oregon, made by Ewauna Box Company in favor of Great  
17 Northern Railway Company; and

18       F.     Instrument recorded December 18, 1967 in Volume M67 at Page 9887 of the  
19 Deed Records of Klamath County, Oregon, made by plaintiff Modoc Lumber Co., Inc. in favor  
20 of Southern Pacific Railroad Company.

21       3.     The Easements and Agreements described above are hereby declared to be  
22 terminated and of no further force and effect, and plaintiffs are declared to be the owner of the  
23 real property described on Exhibit "A," free and clear of the terms and conditions of said  
24 Easements and Agreements.

4. No costs, disbursements, or attorneys' fees shall be awarded to any party.

DATED this 6 day of December, 2000.

**Cameron F. Wogan**  
**Circuit Court Judge**

IT IS SO STIPULATED:

LANE POWELL | SPEARS LUBERSKY LLP

By Timothy R. Harmon  
Timothy R. Harmon, OSB No. 79257  
Attorneys for Union Pacific Railroad Company

**SUBMITTED BY:**

**William M. Ganong, OSB No. 78213**  
**Attorney for Plaintiffs**  
**514 Walnut Avenue**  
**Klamath Falls, OR 97601**  
**(541) 882-7228**

**LEGAL DESCRIPTION****PARCEL 1:**

Lots 6, 7 and 8 in Block 85, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL 2:**

Lots 3, 4, 5, 6, 7, 8 and the Southwesterly 39 feet of Lot 2, all in Block 74, KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that vacated portion by Ordinance M73-10602 which inurred thereto.

**PARCEL 3:**

Together with the vacated alley lying between Lots 3 and 4 and Lots 7 and 8 in said Block 74, KLAMATH ADDITION to the City of Klamath Falls, Oregon; and also an undivided 1/2 interest in the Northerly 10 feet of the Westerly 52 feet of the vacated alley in said Block 74 in KLAMATH ADDITION to the City of Klamath Falls, Oregon; and also the Southerly 10 feet of the Westerly 52 feet of the vacated alley of Block 74 in KLAMATH ADDITION to the City of Klamath Falls, Oregon; and also the Northerly 35 feet of the Westerly 156 feet of vacated Walnut Avenue between Blocks 74 and 86, KLAMATH ADDITION to the City of Klamath Falls, Oregon; and also the southerly 35 feet of the Westerly 156 feet of vacated Walnut Avenue between Blocks 74 and 86, KLAMATH ADDITION to the City of Klamath Falls, Oregon; and also the Westerly 156 feet of the vacated alley in Block 86 in KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL 4:**

A rectangular parcel 7 feet by 10 feet located in the most Southerly corner of Lot 3, Block 75, of KLAMATH ADDITION to the City of Klamath Falls, Oregon, the most Southerly corner of said parcel being coincident with the most Southerly corner of said Lot 3 and particularly described as beginning at the most Southerly corner of said Lot 3, thence Northeasterly on the Northerly line of the alley 7 feet; thence Northwesterly parallel to Fourth Street 10 feet; thence at right angles Southwesterly 7 feet to line between Lots 3 and 4 of said Block 75; thence Southeasterly on said last mentioned line to the place of beginning.

**PARCEL 5:**

Lots 3, 4, 5, 6, 7, 8 and 9 in Block 86 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of vacated Oak Street, 3rd Street and Walnut Street by Ordinance M73-10602 which inurred thereto.

**PARCEL 6:**

The Northerly 1/2 of Lots 1 and 2 in Block 86 of KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of vacated Walnut Street by Ordinance M73-10602 which inurred thereto.

**PARCEL 7:**

The Southeasterly 1/2 of Lots 1 and 2 in Block 86 of KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

**PARCEL 8:**

The S1/2 of Lots 9 and 10, Block 74, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, and the West 30 feet of closed Walnut Street, between 3rd and 4th Streets.

## LEGAL DESCRIPTION (continued)

PARCEL 9:

The N1/2 of Lots 9 and 10 in Block 74 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. ALSO the vacated portion of the alley adjacent thereto.

All of Lot 1, and the Northeasterly 13 feet of Lot 2 in Block 74 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. ALSO the vacated portion of the alley adjacent thereto.

PARCEL 10:

Lots 9 and 10, Block 73 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. EXCEPTING THEREFROM the Northwesterly 7 1/2 feet of said lots. TOGETHER WITH that portion of vacated 3rd Street and vacated Walnut Avenue by Ordinance M73-10602 which inurred thereto.

PARCEL 11:

Lot 10 in Block 86 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of vacated Oak Street by Ordinance M73-10602 which inurred thereto.

PARCEL 12:

All of Block 88 of KLAMATH ADDITION to the City of Klamath Falls, Oregon, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH the vacated alley running through said Block 88.

ALSO TOGETHER

WITH those vacated portions of 1st Street, 2nd Street, Walnut Avenue and Oak Avenue by Ordinance No. 5931 which inurred thereto.

PARCEL 13:

Beginning at the most Easterly corner of the parcel of land described as Parcel No. II in deed from Harry M. Ackley, et al, to Central Pacific Railway Company, dated October 25, 1926 and recorded in Volume 72 of Deeds at page 504, Records of Klamath County, State of Oregon, said corner being described in said deed as being in the Southwesterly line of Block 88, KLAMATH ADDITION to the City of Klamath Falls, at a point distant thereon North 51 degrees 04' West, 18 feet from the South corner of said Block 88; thence along the Southeasterly line of said Parcel No. II the following four courses: (1) South 74 degrees 15' West, 30.00 feet, (2) South 82 degrees 51' West, 271.00 feet, (3) South 69 degrees 28' West, 74.00 feet and (4) South 55 degrees 28' West, 99.00 feet to a point; thence South 38 degrees 48' West, 1.90 feet to a point; thence South 38 degrees 40' West, 60.00 feet to a point in the Northeasterly prolongation of a line which is parallel with and distant 200 feet Southeasterly measured at right angles from the Southeasterly line of that portion of Klamath Avenue (60 feet wide) bearing North 66 degrees 32' East; thence South 66 degrees 32' West along said prolongation and parallel line 689.89 feet to a point in the Southeasterly prolongation of the Northeasterly line of Payne Alley; thence North 23 degrees 28' West along said prolongation 200.00 feet to a point in said Southeasterly line of Klamath Avenue; thence North 66 degrees 32' East along last said line 586.00 feet to a point; thence South 50 degrees 55' East, 114.32 feet; thence North 74 degrees 03' 20" East, 73.23 feet to a point in the Southwesterly line of the Center Street lot; thence North 50 degrees 55' West along said Southwesterly line 19.24 feet to the most Westerly corner of the parcel of land described as Parcel No. I in said deed dated October 25, 1926; thence along the Northerly line of Parcels No. I and II of last said deed the following six courses: (1) Easterly along a curve to the left having a radius of 370.78 feet through a central angle of 12 degrees 08' 17" (chord of said curve bears North 79 degrees 15' East, 78.40 feet) an arc distance of 78.55 feet, (2) North 64 degrees 48' East, 15.30 feet, (3) North 67 degrees 48' East, 48.89 feet, (4) North 64 degrees 48' East, 11.50 feet, (5) Easterly along a curve to the right having a radius of 586.359 feet through a central angle of 25 degrees 31' 44" (chord of said curve bears North 77 degrees 47' East, 259.10 feet) an arc distance of 261.26 feet and (6) Easterly along a curve to the left having a radius of 561.552 feet through a central angle of 7 degrees 54' 49" (chord of said curve bears North 86 degrees 33' 40" East 77.93 feet, shown as North 86 degrees 35' East 77.50 feet in last said deed) an arc distance of 77.99 feet to a point in said Southwesterly line of Block 88; thence South 51 degrees 04' 00" East, along last said line 51.20 feet to the point of beginning.

## LEGAL DESCRIPTION (continued)

PARCEL 14:

An irregular tract of land located in Government Lots 3 and 10, Section 32, Township 38 South, Range 9 East Willamette Meridian, Klamath County, Oregon, described as follows:

Commencing at the East 1/4 corner of Section 32, thence South 69 degrees 36' West a distance of 38.1 feet; thence South 38 degrees 56' West along the Southeasterly line of Kinlock Street 16.47 feet to the true point of beginning. Thence South 10 degrees 46' 30" West 651.21 feet; thence Southeasterly along the arc of a curve to the left having a radius of 487.86 feet, 344.86 feet through an angle of 40 degrees 31'. (The long chord of said curve being 337.72 feet long and bears South 9 degrees 29' East) to a point in the Southeasterly extension of the Northeasterly line of 3rd Street, which is also a line drawn parallel with and 30 feet at right angle Northeasterly from the original located centerline of the O.C.&E. R.R., thence North 51 degrees 04' West along said Northeasterly line of 3rd Street 1,685.27 feet to its intersection with the Southeasterly line of Oak Avenue, thence North 38 degrees 56' East along said Southeasterly line of Oak Avenue 260 feet, thence South 51 degrees 04' East along Southwesterly line of 4th Street 580 feet to its intersection with Southeasterly line of Willow Avenue, thence North 38 degrees 56' East along said Southeasterly line of Willow Avenue 320 feet; thence South 51 degrees 04' East along Southwesterly line of 5th Street 545 feet to intersection with Southeasterly line of Kinlock Avenue, thence North 38 degrees 56' East along said Southeasterly line of Kinlock Avenue 217.33 feet to the point of beginning excepting that portion lying Easterly of Westerly line of 5th Street.

EXCEPTING THEREFROM:

A tract of land situated in the SE1/4 of Section 32, Township 38 South, Range 9 East Willamette Meridian, Klamath County, Oregon, more particularly described as follows: Beginning at the East quarter corner of said Section 32; thence South 69 degrees 36' 00" West 38.1 feet to a point on the Southeasterly line of Kinlock Street; thence South 38 degrees 56' 00" West along said Southeasterly line of said street a distance of 16.47 feet; thence South 10 degrees 46' 30" West 246.59 feet to a point on the Southwesterly line of 5th Street, if extended, said point being the true point of beginning of this description; thence South 10 degrees 46' 30" West 317.04 feet; thence North 50 degrees 27' 40" West 285.03 feet; thence North 38 degrees 56' 00" East 276.49 feet to the Southwesterly line of 5th Street; thence South 51 degrees 04' 00" East along said Southwesterly line of said 5th Street and said line if extended 135.40 feet to the true point of beginning.

ALSO EXCEPTING THEREFROM All of Block 103, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH the vacated alley in Block 103. ALSO TOGETHER WITH that portion of vacated 4th Street and vacated Elm Street which inured thereto.

ALSO EXCEPTING THEREFROM All of Block 107, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH those portions of vacated Elm Street, 4th Street, and Kinlock Street which inured thereto.

AND ALSO EXCEPTING THEREFROM an irregular tract of land located in Government Lots 3 and 10, Section 32, Township 38 South, Range 9 East of the Willamette Meridian, more particularly described as follows:

Commencing at the East quarter corner of Section 32, Township 38 South, Range 9 East of the Willamette Meridian; thence South 69 degrees 36' West a distance of 38.1 feet to a point on the Southeasterly line of Kinlock Street; thence South 38 degrees 56' West along said Southeasterly line of Kinlock Street a distance of 16.47 feet to the true point of beginning; thence South 10 degrees 46 1/2' West 246.59 feet, more or less, to its intersection with the Westerly line of Fifth Street in Klamath Falls, Oregon, if extended; thence North 51 degrees 04' West a distance of 116.51 feet, more or less, to the intersection of said Westerly line of Fifth Street and the Southeasterly line of Kinlock Street; thence North 38 degrees 56' East a distance of 217.33 feet, along the said Southeasterly line of Kinlock Street, to the point of beginning.

**LEGAL DESCRIPTION (continued)****PARCEL 15:**

A parcel of land situate in Lots 79, 80 and 85 of ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, and in Section 4, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at a 1-inch iron pipe marking the Northeast corner of Government Lot 9 of said Section 4; thence South 00 degrees 23' 00" East, 1,320.14 feet to a 1-inch iron pipe on the North line of Lot 79 of said ENTERPRISE TRACTS, said point being the point of beginning for this description; thence South 89 degrees 48' 30" West along the North line of said Lot 79, 688.46 feet to a 1-inch iron pipe; thence continuing South 89 degrees 48' 30" West, 30.00 feet to a point on the bank of Lake Ewauna; thence Southerly following the bank of Lake Ewauna the following courses and distances: South 05 degrees 25' 14" West, 49.12 feet; South 24 degrees 40' 19" East, 325.16 feet; South 11 degrees 25' 13" East, 518.73 feet; South 15 degrees 52' 57" East, 209.20 feet; South 05 degrees 41' 51" East, 168.92 feet; South 05 degrees 02' 49" West, 1,126.98 feet to a steel fence post; thence leaving said bank South 39 degrees 05' 16" East, 54.16 feet to a point that is 20.00 feet Westerly of when measured at right angles to the centerline of the existing Great Northern Railroad tracks; thence Northerly and parallel to but 20.00 feet Westerly of the centerline of said tracks the following courses and distances: along the arc of a 934.93 feet radius curve to the left (delta = 46 degrees 06' 00") 752.24 feet (long chord = North 38 degrees 02' 00" East, 732.11 feet) to the end of simple curve and beginning of spiral curve; thence along the arc of a spiral curve to the left (long chord = North 10 degrees 12' 10" East, 237.44 feet) to the end of spiral curve; thence North 07 degrees 47' 01" East, 167.36 feet to the beginning of a simple curve to the left; thence along the arc of a 1,125.92 feet radius curve to the left (delta = 8 degrees 12' 13") 161.20 feet (long chord = North 03 degrees 40' 55" East, 161.05 feet) to the end of curve; thence North 00 degrees 25' 12" West, 645.63 feet to the beginning of a simple curve to the right; thence along the arc of a 2,884.79 feet radius curve to the right (delta = 08 degrees 19' 27") 419.11 feet (long chord = North 03 degrees 44' 31" East, 418.76 feet) to the end of curve; thence North 07 degrees 54' 15" East, 52.81 feet; thence leaving the line 20.00 feet Westerly of and parallel to said tracks North 30 degrees 29' 08" West, 158.42 feet to the point of beginning.

**PARCEL 16:**

A parcel of land situate in the NE1/4 SE1/4 of Section 5, Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Commencing at the Southwest corner of the SE1/4 SE1/4 of said Section 5; thence North 00 degrees 33' 28" East, 1,332.50 feet to the Northwest corner of the SE1/4 SE1/4 of Section 5; thence south 89 degrees 52' 19" East, 867.35 feet to a 2-inch iron pipe; thence North 12 degrees 18' 31" West, 128.16 feet to a 5/8 inch iron pin; thence North 25 degrees 00' 00" West, 228.22 feet to a point on the centerline of the Riverside Spur railroad tracks; thence North 34 degrees 48' 00" East, 50.00 feet to the point of beginning for this description; thence North 55 degrees 12' 00" West parallel to but 50.00 feet Northerly of the centerline of said tracks 362.60 feet to the beginning of a curve to the right; thence continuing parallel to but 50.00 feet Northerly of said centerline of tracks along the arc of a 1,859.86 feet radius curve to the right (delta = 07 degrees 00' 24") 228.52 feet (long chord = North 51 degrees 41' 48" West, 227.30 feet); thence East along the Westerly extension of the North line of a tract of land described in Deed Volume 80 at page 68, Klamath County Deed Records, 820.13 feet to the Northeast corner of said tract of land; thence South 20 degrees 15' 00" East along the Easterly line of said tract of land 625.69 feet; thence leaving said Easterly line West 216.40 feet to a 1-inch iron pipe; thence North 55 degrees 12' 00" West, 419.12 feet to the point of beginning.

**PARCEL 17:**

An irregular tract of land located in Government Lots 3 and 10, Section 32, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Commencing at the East quarter corner of Section 32, Township 38 South, Range 9 East of the Willamette Meridian; thence South 0 degrees 01' East a distance of 1,191 feet to the true point of beginning, being the point of intersection of the Section line between Sections 32 and 33 and the Southwesterly right of way line of the O.C.&E. Railway which is parallel to and 50 feet from the

(continued)



**LEGAL DESCRIPTION (continued)****Parcel 17 (continued)**

original located center line of said railway and also the center line of Third Street extended; thence South 0 degrees 01' East 492 feet to the meander corner which is on the above mentioned section line; thence South 49 degrees 11' West a distance of 70.9 feet; thence North 31 degrees 31' West 390.9 feet; thence North 29 degrees 15' West 90.2 feet; thence North 38 degrees 17' West 297.13 feet; thence North 44 degrees 09' West 33.1 feet; thence South 38 degrees 56' West 51.0 feet; thence North 51 degrees 04' West 1,160 feet to a point on the center line of Plum Avenue extended; thence North 38 degrees 55' East along said center line of Plum Avenue 30.0 feet to the Northeasterly line of 2nd Street; thence North 51 degrees 05' West along the Northeasterly line of 2nd Street 255 feet to the Southeasterly line of Oak Avenue; thence North 38 degrees 34' East along said Southeasterly line of Oak Avenue 260 feet to a point on the Southwesterly line of 3rd Street; thence following the Southwesterly line of Third Street South 31 degrees 04' East 1,397.5 feet to a point which is 30 feet at right angles Southerly from the center line of Third Street; thence South 38 degrees 56' West 17 feet; thence South 51 degrees 04' East 415.85 feet; thence South 38 degrees 56' West 3 feet; thence South 31 degrees 04' East a distance of 80 feet to the point of beginning.

**PARCEL 18:**

A portion of Government Lots 6 and 7 of Section 33, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at an iron pin which lies on the Southerly right of way of the O.C.&E. Railroad and which iron pin lies South 0 degrees 08' 30" West along the Section line a distance of 1,242.5 feet from the iron pipe which marks the quarter section corner common to sections 32 and 33, Township 38 South, Range 9 East of the Willamette Meridian and running thence: South 57 degrees 32' 34" East along the Southerly right of way line of the O.C.&E. Railroad a distance of 125.17 feet to an iron pin; thence continuing South 51 degrees 04' East along the Southerly right of way line of the O.C.&E. Railroad a distance of 74.83 feet to a point; thence South 21 degrees 42' West a distance of 446.65 feet to an iron pin on the Section line; thence North 0 degrees 08' 30" East along the Section line a distance of 529.2 feet, more or less, to the point of beginning.

**PARCEL 19:**

A portion of Government Lots 5, 6 and 7 in Section 33, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point 77 feet Southwesterly at right angles from the centerline of the O.C.&E. Railroad which lies North 55 degrees 22' West a distance of 250 feet and South 34 degrees 38' West a distance of 1,116.85 feet from the iron pin which marks the intersection of the Westerly right of way line of the Central Pacific Railway Company and the Southwesterly line of South Sixth Street and running thence; South 51 degrees 04' East parallel to the centerline of the O.C.&E. Railroad, and 77 feet Southwesterly at right angles therefrom, a distance of 320.96 feet to a point; thence South 56 degrees 54' 46" East a distance of 56.286 feet to a point which is 71.267 feet Southwesterly at right angles from the centerline of the O.C.&E. Railroad; thence South 51 degrees 03' East a distance of 58.690 feet to a point which is 71.284 feet Southwesterly at right angles from the Centerline of the O.C.&E. Railroad; thence South 50 degrees 42' 30" East a distance of 525.361 feet to a point which is 74.570 feet Southwesterly at right angles from the centerline of the O.C.&E. Railroad; thence Southeasterly along the arc of a curve, of a radius of 488.53 feet, an arc distance of 209.150 feet to a point in the Westerly right of way line of the Central Pacific Railway Company's right of way as purchased from the Ewauna Box Company by Warranty Deed dated February 1, 1927, recorded February 16, 1927, in Book 75 Page 200, in official records of Klamath County, Oregon, (the long chord of the last described arc bears South 38 degrees 26' 36" East a distance of 207.560 feet); thence South 17 degrees 42' 52" East a distance of 114.913 feet to a point; thence South 0 degrees 23' East parallel to the centerline of the Central Pacific Railway Company, and 90 feet Westerly at right angles therefrom, a distance of 124.73 feet more or less to a point on the South line of Section 33, Township 38 South, Range 9 East of the Willamette Meridian in Klamath County, Oregon; thence South 89 degrees 51' West along the South line of Section 33, Township 38 South, Range 9 East of the Willamette Meridian, a distance of 1,085.58 feet to a point on the meander line; thence North 12 degrees 30' West a distance of 774.8 feet to the angle point; thence North 40 degrees 30' West a distance of 264 feet to a point on the West line of Section 33, Township 38 South, Range 9 East of

(continued)

## LEGAL DESCRIPTION (continued)

Parcel 19 (continued)

the Willamette Meridian; thence North along the Section line a distance of 439.75 feet to a point which is 90.971 feet Southwesterly at right angles from the centerline of the O.C.&E. Railroad; thence South 57 degrees 32' 34" East a distance of 123.866 feet to a point which is 77 feet Southwesterly at right angles from the centerline of the O.C.&E. Railroad; thence South 51 degrees 04' East parallel to the centerline of the O.C.&E. Railroad and 77 feet Southwesterly therefrom a distance of 527.04 feet more or less to the point of beginning.

SAVING AND EXCEPTING that portion of the above-described property heretofore conveyed by the grantor to the Palmerton Lumber Company, an Oregon Corporation, by deed dated July 20, 1951, recorded July 26, 1951 on page 557 of Volume 248 of Deeds Records of Klamath County, Oregon.

EXCEPTING THEREFROM that portion of Government Lot 6 in Section 33, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Commencing at the quarter section corner common to Sections 32 and 33, Township 38 South, Range 9 East of the Willamette Meridian; thence South 0 degrees 05 1/2' West along the Section line common to said Sections 32 and 33 a distance of 1,242.5 feet to an iron pipe which lies 90.97 feet Southwesterly, when measured at right angles to, the centerline of the Oregon-California and Eastern Railroad right of way; thence South 57 degrees 32' East 125.17 feet, thence South 51 degrees 04' East parallel to and 77.00 feet distant Southwesterly from the centerline of the railroad right of way 74.83 feet to the true point of beginning of this description; thence continuing South 51 degrees 04' East 410.64 feet; thence South 34 degrees 45' West 71.77 feet; thence South 32 degrees 45' East 199.00 feet; thence South 267.00 feet; thence West 241.21 feet; thence South 77 degrees 13' West 135.91 feet; thence North 4 degrees 52' West 149.60 feet; thence North 2 degrees 26' East 132.72 feet to a point in the centerline of an existing railroad spur; thence North 59 degrees 50' West 204.36 feet; thence North 21 degrees 46' East 430.09 feet to the point of beginning.

PARCEL 20:

A portion of that tract of land recorded in Volume 294, Page 140, Deed Records of Klamath County, Oregon, described therein as being located in Government Lot 6, Section 33, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said portion being more particularly described as follows:

Commencing at the quarter section corner common to Sections 32 and 33, Township 38 South, Range 9 East of the Willamette Meridian; thence South 0 degrees 08' 30" West along the Section line common to said Sections 32 and 33 a distance of 1,242.5 feet to an iron pipe which lies 90.97 feet Southwesterly, when measured at right angles to, the centerline of the Oregon-California and Eastern Railroad right-of-way, thence, South 57 degrees 32' 30" East 125.10 feet; thence, South 51 degrees 04' East, parallel to and 77.00 feet distant Southwesterly from the centerline of the railroad right-of-way 74.83 feet; thence South 51 degrees 04' East, 410.64 feet, thence South 34 degrees 45' West 71.77 feet to the true point of beginning; thence South 32 degrees 45' East a distance of 199.00 feet; thence South a distance of 50.00 feet; thence North 44 degrees 04' 40" West a distance of 216.45 feet, thence North 34 degrees 45' East, a distance of 75.30 feet, more or less, to the true point of beginning.

PARCEL 21:

Government Lot 9 of Section 4, Township 39 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

**LEGAL DESCRIPTION (continued)****PARCEL 22:**

All that portion of TRACTS NO. 77 AND 80, ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, located in the E1/2 of NW1/4 of Section 4, in Township 39 South, Range 9 East of the Willamette Meridian, more particularly described as follows: Beginning at the Northwest corner of the NE1/4 of NW1/4 (being also the Northeast corner of Government Lot 9) of Section 4, Township 39 South, Range 9 East of the Willamette Meridian, and running thence: Easterly along the North line of said Section 4, 87 feet, more or less, to the Westerly right of way line of the Central Pacific Railway Company as described in deed from the Enterprise Land and Investment Company to California Northeastern Railway Company, dated September 17, 1907, recorded in Volume 23 of Deeds, page 193; thence along the Westerly right of way line South 0 degrees 57 1/2' East, a distance of 1,470 feet to a point; thence Northwesterly in a straight line to the Southeast corner of Government Lot 9 of Section 4, Township 39 South, Range 9 East of the Willamette Meridian; thence Northerly along the Easterly line of said Government Lot 9 a distance of 1,320 feet, more or less, to the point of beginning.

**PARCEL 23:**

All of Block 87, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that vacated portion, by Ordinance M73-10602 which inurred thereto.

**PARCEL 24:**

Lots 6, 7 and 8 in Block 73, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. EXCEPTING THEREFROM the Northwesterly 7 1/2 feet of said lots. TOGETHER WITH that vacated portion, by Ordinance M73-10602 which inurred thereto.

**PARCEL 25:**

Lots 1, 2, 3, 4 and 5, Block 89, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

The Southeasterly one-half of Block 89, KLAMATH ADDITION to the City of Klamath Falls, being Lots 6, 7, 8, 9 and 10 of said block,

TOGETHER WITH those portions of vacated 1st Street, 2nd Street, Plum Avenue, and Oak Avenue by Ordinance 5931 which inurred thereto.

**PARCEL 26:**

Block 71, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of the vacated alley in Block 71. ALSO TOGETHER WITH that portion of vacated Center Street, 1st Street, and Walnut Avenue by Ordinance 5931 which inurred thereto.

**PARCEL 27:**

Block 72, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH that portion of vacated alley in Block 72. ALSO TOGETHER WITH that portion of vacated 1st Street, 2nd Street and Walnut Avenue by Ordinance 5931 which inurred thereto.

**LEGAL DESCRIPTION (continued)****PARCEL 28:**

All of that certain parcel of land conveyed by Robert E. Strahorn to the Central Pacific Railway Company by deed dated March 24, 1926, and recorded June 2, 1926 in Volume 69 at page 623, Deed Records of Klamath County, Oregon, described as follows:

Government Lots 6, 7 and 8 of Section 5 in Township 39 South, Range 9 East, Willamette Meridian, Klamath County, Oregon. Also the following described premises, to-wit:

Beginning at meander corner to fractional Sections 5 and 32, as established by the Government Survey, 31.50 chains East of the corner of Sections 5, 6, 31 and 32; Townships 38 and 39 South, Range 9 East of the Willamette Meridian; thence East 8.81 chains to right bank of Klamath River; thence in Section 5, South 39 degrees East 9.71 chains; South 49 1/4 degrees East 14.15 chains; South 43 1/4 degrees East 11.86 chains; South 26 1/4 degrees East 13.40 chains; South 23 1/4 degrees East 12.63 chains; South 20 1/4 degrees East 11.00 chains West 6.93 chains; North 18 degrees West 5.26 chains; North 55 degrees West 6.00 chains; North 46 1/4 degrees West 8.00 chains; North 26 degrees West 16.50 chains; North 41 3/4 degrees West 5 chains; North 34 1/4 degrees West 33.00 chains to the meander corner at the place of beginning.

EXCEPTING AND RESERVING from the above described premises the following, to-wit: That portion of Government Lot 6 and the land East thereof in the NE1/4 of SE1/4 of Section 5, Township 39 South, Range 9 East of the Willamette Meridian, heretofore conveyed to George H. Randell, particularly described as follows, to-wit:

Beginning at a point in the East line of Section 5, 1,361 feet North of the corner common to Sections 4, 5, 8 and 9 running thence West 495.8 feet to the meander line survey of 1858; thence along said meander line North 25 degrees West 462 feet; thence North 55 degrees 45' West 314.5 feet; thence East 731.3 feet; thence South 20 degrees 15' East to point of beginning. Said deed heretofore made to George H. Randell, dated the 14th day of August, 1911, and recorded in Volume 35 at page 82 of Deed Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM that certain parcel of land conveyed by the Central Pacific Railway Company to the Great Northern Railway Company by deed dated September 10, 1929, described first therein as follows:

Commencing at the common corner of said Section 5 and Section 6, Township 39 South, Range 9 East of the Willamette Meridian and Sections 31 and 32, Township 38 South, Range 9 East of the Willamette Meridian; thence East along the North line of said Section 5, a distance of 1,881.00 feet to a stone monument at the point of intersection of said North line of said Section 5 and the meander line survey of 1858, which is the point of beginning of parcel of land to be described; said point of beginning also being the Northwest corner of said Government Lot 8; thence East along said North line of said Section 5; a distance of 36.92 feet to a point, said point bears West a distance of 161.08 feet, measured along said North line of said Section 5 from a stone monument at the point of intersection of said North line of said Section 5 and the Meander Line Survey of 1872; thence South 21 degrees 15' East, a distance of 127.24 feet to a point in the Meander Line Survey of 1858, said Meander Line of 1858 also being the Westerly line of said Government Lot 8; thence North 35 degrees 00' West along said Meander Line Survey of 1858, a distance of 144.77 feet to the point of beginning.

**PARCEL 29:**

A tract of land situated in the SE1/4 of Section 32, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows: Beginning at the East quarter corner of said Section 32; thence South 69 degrees 36' 00" West 38.1 feet to a point on the Southeasterly line of Kinlock Street; thence South 38 degrees 56' 00" West along said Southeasterly line of said street a distance of 16.47 feet; thence South 10 degrees 46' 30" West 246.59 feet to a point on the Southwesterly line of 5th Street, if extended, said point being the true point of beginning of this description; thence South 10 degrees 46' 30" West 317.04 feet; thence North 50 degrees 27' 40" West 285.03 feet; thence North 38 degrees 56' 00" East 276.49 feet to the Southwesterly line of 5th Street; thence South 51 degrees 04' 00" East along said Southwesterly line of said 5th Street and said line if extended 135.40 feet to the true point of beginning.

TRANS. A  
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## LEGAL DESCRIPTION (continued)

PARCEL 30:

All of Block 103, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH the vacated alley in Block 103. ALSO TOGETHER WITH that portion of vacated 4th Street and vacated Elm Street which inurred thereto.

PARCEL 31:

All of Block 107, KLAMATH ADDITION to the City of Klamath Falls, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon. TOGETHER WITH those portions of vacated Elm Street, 4th Street, and Kinlock Street which inurred thereto.

EXCEPTING THEREFROM a tract of land situated in the SE1/4 of Section 32, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows: Beginning at the East quarter corner of said Section 32; thence South 69 degrees 36' 00" West 38.1 feet to a point on the Southeasterly line of Kinlock Street; thence South 38 degrees 56' 00" West along said Southeasterly line of said street a distance of 16.47 feet; thence South 10 degrees 46' 30" West 246.59 feet to a point on the Southwesterly line of 5th Street, if extended, said point being the true point of beginning of this description; thence South 10 degrees 46' 30" West 317.04 feet; thence North 50 degrees 27' 40" West 285.03 feet; thence North 38 degrees 56' 00" East 276.49 feet to the Southwesterly line of 5th Street; thence South 51 degrees 04' 00" East along said Southwesterly line of said 5th Street and said line if extended 135.40 feet to the true point of beginning.

PARCEL 32:

Beginning at the Southwesterly corner of Center Street and Klamath Street, also known as Klamath Avenue, Klamath Falls, Oregon; thence Westerly from said corner along the Southerly line of said Klamath Street (also known as Klamath Avenue), 60 feet; thence Southerly at right angles with said Southerly line of Klamath Street, also known as Klamath Avenue, and parallel with the extension of the Westerly line of said Center Street to the water line of the Lower Klamath Lake or Lake Ewauna; thence Easterly along the water line of said Lake Ewauna to the intersection with the extension of said Westerly line of Center Street; thence Northerly along the Westerly line of said Center Street to the place of beginning, being a portion of Section 32, Township 38 South, Range 9 East of the Willamette Meridian, and according to the plat of Linkville and Klamath Falls, as recorded in the office of the County Clerk of Klamath County, Oregon.

PARCEL 33:

Beginning at a point 70 feet North and 51 degrees 4' West of the West corner of Block 71 in said Klamath Addition, and 30 feet South 38 degrees 56' West, thence South 51 degrees 4' East to Klamath River or Lake Ewauna; thence along the meander line of said river or lake Westerly to the intersection of the extension of the West line of Center Street in Klamath Falls, Oregon, thence North 51 degrees 4' West to the East corner of Block 31 in ORIGINAL TOWN OF KLAMATH FALLS, thence North 38 degrees 56' East 30 feet to the place of beginning, as described in Deed, Book 68, page 591. EXCEPT that portion of said tract which lies in Klamath Street or Avenue.

THIS INDENTURE, made this 25 day of January, 1933  
between EWAUNA BOX COMPANY, a corporation, first party, and CENTRAL  
PACIFIC RAILWAY COMPANY, a corporation, second party,

WITNESSETH:

That said first party, for and in consideration of the sum of  
Ten (10) Dollars, lawful money of the United States of America, to it  
paid by the said second party, the receipt whereof is hereby ack-  
nowledged, does by these presents grant, bargain, sell, convey and  
confirm unto the said second party, and to its successors and assigns,  
forever, all that certain strip of land lying south of and contiguous  
to the Oregon California & Eastern Railway Company's right of way  
in Section 33, Township 38 South, Range 9 East, W.M., City of Klamath  
Falls, County of Klamath, State of Oregon, as granted by bargain and  
sale deed from the City of Klamath Falls to Oregon California & Eastern  
Railway Company, recorded in Book 63 of Deeds, Page 5, Official Records  
of Klamath County, Oregon, and more particularly described as follows,  
to-wit:

COMMENCING at a point on the South line of the Oregon  
California & Eastern Railway Company's right of way as above  
mentioned, said point being South 0°01' East 1191.05 feet  
from Quarter corner on North and South line between Sections  
32 and 33, Township 38 South, Range 9 East, W.M., and 50.00  
feet distant measured at right angles from Engineers Station  
5482+09.341 of the originally located center line of double  
track of Oregon California & Eastern Railway Company's rail-  
road; thence South 51°40'00" East a distance of 1739.831 feet,  
along said southerly right of way line, to a point 50.00 feet  
distant, measured at right angles from Engineers Station 5464+  
09.510 of the original center line of double track; thence South  
18°18'52" East a distance of 127.186 feet along the westerly  
right of way line of the Central Pacific Railway Company's  
right of way as purchased from the Ewauna Box Company by  
warranty deed dated February 24, 1927, recorded February 16,  
1927, in Book 75, Page 200, in Official Records of Klamath  
County, Oregon, to a point 424.260 feet distant westerly  
measured at right angles from Engineers Station 3353+63.583  
of the original located center line of the Central Pacific  
Railway Company's railroad; thence northwesterly along the  
arc of a curve of a radius of 488.53 feet, an arc distance of  
209.150 feet to a point 74.570 feet distant southwesterly  
measured at right angles from Engineers Station 5465+65.817  
of the originally located center line of double track of  
Oregon California & Eastern Railway Company's railroad (long  
chord to last described arc bears North 39°02'36" West a  
distance of 207.560 feet); thence North 51°18'30" West a  
distance of 525.361 feet to a point 71.284 feet distant

measured at right angles from Engineers Station 5470+91.167 of aforesaid center line of double track; thence North 51°39' West a distance of 58.090 feet to a point 71.267 feet distant measured at right angles from Engineers Station 5471+49.657 of aforesaid center line of double track; thence North 57°30' 46" West a distance of 56.286 feet to a point 77.000 feet distant measured at right angles from Engineers Station 5472+05.850 of aforesaid center line of double track; thence North 51°40' 00" West a distance of 848.000 feet to a point 77.000 feet distant measured at right angles from Engineers Station 5480+53.850 of aforesaid center line of double track; thence North 58°08'34" West a distance of 123.866 feet to a point on the West line of Section 33 Township 38 South, Range 9 East, W.M., said point being 90.971 feet distant measured at right angles from Engineers Station 5481+76.926 of aforesaid center line of double track; thence North 0°01' West along said section line a distance of 52.244 feet to the point of beginning; and containing an area of 1.072 acres, more or less.

...thereinto belonging, or in anywise appertaining.

**EXCEPTING AND RESERVING** unto the first party the right to construct and maintain water mains, steam pipes, sewer lines and drainage channels across the above described land at such points as may be desired by said first party, also the right to erect and maintain overhead blow pipe, power, telephone and light wire crossings at regulation height and with standard construction across said land at such point or points as first party may find convenient in its business, also the right to maintain and use two crossings at grade for the transportation of persons, vehicles, lumber and other products, and also the right to construct, and maintain at grade across said land a spur from the tracks of the Oregon California & Eastern Railway Company to the property of the first party, such crossing to be at a point selected by the first party, and such spur and crossing shall be constructed and paid for by the second party to a point on the southerly line of the property hereinabove described.

First party agrees not to demand construction of said spur and crossing until and unless it becomes necessary on account of future changes in the railroad situation at this point, and if said spur and crossing ever do become necessary, first party will so notify second party, whereupon, if second party can point out to first party a method by which the same or equal services as will be provided by said spur and crossing can be obtained by first party in another way at no greater

most to first party, then in that event first party will then accept such other method of access to its property in substitution of the construction of said spur and crossing as above provided for.

This deed is made upon the express condition that no structure shall be erected or maintained upon the parcel of land above described other than a railroad track and appurtenances, for the reason that any other structures thereon would increase the fire hazard and insurance rates of the property of the first party.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD all and singular the said premises above described, together with the appurtenances, unto the said second party and to its successors and assigns, forever, so long as the above mentioned conditions are complied with by said second party, its successors and assigns. And the said first party does covenant to and with the said second party, its successors and assigns, that it is lawfully seized in fee simple of the above granted premises; that the same are free from all encumbrances, and that it will, and its successors and assigns shall warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever.

First party does also by these presents grant to second party, its successors and assigns, the right to use in common with first party, forever, that certain piece or parcel of land situate in the County of Klamath, State of Oregon, more particularly described as follows, to-wit:

COMMENCING at a point on the westerly line of the Central Pacific Railway Company's right of way as purchased from the Ewauna Box Company by warranty deed dated February 1, 1917, recorded February 16, 1927, in Book 75, Page 200, in Official Records of Klamath County, Oregon, said point being 124.260 feet distant westerly measured at right angles from Engineers Station 3353+0.583 of the originally located center line of said Central Pacific Railway Company's railroad; thence South 18°18'52" East a distance of 35.39 feet along aforesaid westerly



right of way line to a point; thence northwesterly along the arc of a curve to the left, of a radius of 512.57 feet, an arc distance of 171.07 feet (line of said arc being 8.5 feet southerly distant radially from center line of Central Pacific Railway Company's track) to a point on the southerly line of property herein conveyed (long chord to last described arc bears North  $31^{\circ}24'22''$  West, a distance of 170.28 feet); thence southeasterly along the southerly line of property herein conveyed on the arc of a curve to the right, of radius 498.53 feet, an arc distance of 136.48 feet to point of beginning (long chord to last mentioned arc bears South  $34^{\circ}46'55''$  East a distance of 136.04 feet), and containing an area of 0.007 of an acre, more or less,

for the sole purpose of maintaining clearances necessary for the operation of the railroad tracks of first party and/or second party.

IN WITNESS WHEREOF, the said first party has caused these presents to be executed by its officers thereunto duly authorized and its corporate seal to be hereunto affixed as of the day and year first hereinabove written.

Signed, sealed and delivered in the presence of us as witnesses:

BY AUNA BOX COMPANY,

By C. H. Daggett  
President.

Attest John J. Callahan  
Secretary.

Description Correct:

C. H. Thirkbride  
Engineer, M. of W. & S.

Correct as to Corporate Owner:

J. H. Thirkbride  
Valuation Officer.

Form Approved:

A. B. Stewart  
Contract Attorney.

County of KLAMATH)  
STATE OF OREGON)

I hereby certify that the within is a  
true and correct copy and the whole  
of the original.

Clerk of Court

By [Signature]  
Date 12/22/00



State of Oregon, County of Klamath  
Recorded 12/22/00, at 9:33 a.m.  
In Vol. M00 Page 45988  
**Linda Smith,**  
County Clerk Fee \$ 106<sup>00</sup>