

AFTER RECORDING RETURN TO:

OBDF Loan No. 353

Oregon Economic & Community Development Department  
775 Summer St. NE  
Salem, OR 97301-1280

State of Oregon, County of Klamath  
Recorded 11/21/01 11:17 a. m.  
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MTL 55425-KR

**RESIDENTIAL TRUST DEED, ASSIGNMENT OF RENT  
SECURITY AGREEMENT, AND FIXTURE FILING**

THIS TRUST DEED is made as of the 13<sup>th</sup> day of November, 2001,  
by John and Sydney Spradley, whose address is 32848 Transformer Road, Malin, OR 97632 ("Grantor"), to  
Amerititle, having its office at 222 Sixth Street, Klamath Falls, OR 97601 ("Trustee"), for the benefit of the State  
of Oregon, acting by and through its Economic & Community Development Commission, whose address is 775  
Summer Street NE, Salem, Oregon 97301 ("Beneficiary").

WHEREAS, Beneficiary has made a loan to Grantor in the sum of Nineteen Thousand Six Hundred  
Eighty and no/Dollars (\$19,680), which loan is to be evidenced by a promissory note of even date herewith. The  
loan, if no sooner paid, is due and payable in full on November 13, 2001. (The Promissory Note, as it  
may be modified, extended, renewed, restated or replaced from time to time, is referred to herein as the "Note");  
and

WHEREAS, as a condition to the making of the loan to Grantor, Beneficiary has required, and Grantor  
has agreed to provide, this Trust Deed.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, and for the  
purpose of securing the Obligations described in Section 1.01 below, Grantor hereby irrevocably grants, bargains,  
sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of Beneficiary, with power of  
sale, all of Grantor's right, title, and interest in and to the real property located in Klamath County, state of  
Oregon, and more particularly described in Exhibit A attached hereto and incorporated herein, together with (1)  
all dwellings and other improvements now or hereafter located thereon, (2) all easements, tenements,  
hereditaments, and appurtenances relating thereto, (3) all awards for any taking of all or portion thereof, and (4)  
all insurance proceeds for any damage thereto (collectively, the "Trust Property").

TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit  
of Beneficiary and its successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations shall be paid, performed, and satisfied in full, then the  
lien and estate hereby granted shall be reconveyed.

This Trust Deed, the Note, that certain loan agreement dated November 13 2001, by and between  
Grantor and Beneficiary (as amended from time to time the "Loan Agreement"), and all other agreements  
executed at any time in connection therewith, as they may be amended or supplemented from time to tie, are  
sometimes collectively referred to as the "Loan Documents."

TO PROTECT THE SECURITY OF THIS TRUST DEED, GRANTOR COVENANTS AND AGREES  
AS FOLLOWS:

**ARTICLE I**

**Particular Covenants and Warranties of Grantor**

**1.01 Obligations Secured.** This Trust Deed secures the payment of all indebtedness, including but  
not limited to principal and interest, and the performance of all covenants and obligations of Grantor, under the  
Note, this Trust Deed, and the other Loan Documents, whether such payment and performance is now due or  
becomes due in the future (collectively, the "Obligations").

**1.02 Payment and Performance.** Grantor shall pay and perform all of the Obligations when due.

**1.03 Property.** Grantor warrants that it holds good and merchantable title to the Trust Property, free  
and clear of all liens, encumbrances, reservations, restrictions, easements, and adverse claims except those  
specifically listed in Exhibit B attached hereto and incorporated herein. Grantor covenants that it shall forever  
defend Beneficiary's and Trustee's rights hereunder and the priority of this Trust Deed against the adverse claims  
and demands of all persons.

RESIDENTIAL TRUST DEED

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51.00 x 5.00

**1.04 Further Assurances.** Grantor shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Trust Deed.

**1.05 Compliance with Laws.** Grantor represents, warrants, and covenants that the Trust Property is currently in material compliance with, and will at all times be maintained in material compliance with, all applicable laws, and all covenants, conditions, easements, and restrictions affecting the Trust Property.

**1.06 Environmental Compliance**

(1) For the purposes of this section, "Environmental Law" means any federal, state, or local law or regulation now or hereafter at any time pertaining to Hazardous Substances or environmental conditions. For purposes of this section, "Hazardous Substance" includes, without limitation, any substance that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local law or regulation.

(2) Grantor will not use, generate, store, release, discharge, or dispose of on, under, or about the Trust Property or the groundwater thereof any Hazardous Substance and will not permit any other person to do so, except for storage and use of such Hazardous Substances (and in such quantities) as may commonly be used for household purposes, provided such substances are sorted and used in compliance with all Environmental Laws. Grantor will keep and maintain the Trust Property in compliance with all Environmental Laws.

(3) Beneficiary shall have the right to participate in any legal proceeding initiated with respect to the Trust Property in connection with any Environmental Laws and have its attorney fees paid by Grantor. If, at any time, Beneficiary has reason to believe that any violation of this Section 1.05 has occurred or is threatened, Beneficiary may require Grantor to obtain or may itself obtain, at Grantor's expense, an environmental assessment by a qualified environmental consultant. Grantor shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantor.

(4) If any investigation, monitoring, containment, cleanup, or other remedial work of any kind is required on the Trust Property under any applicable Environmental Law or by any governmental agency or person in connection with a release of a Hazardous Substance, Grantor shall promptly complete all such work at Grantor's expense.

(5) All representations, warranties, and covenants in this Section 1.06 shall survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Trust Deed.

**1.07 Maintenance and Improvements.** Grantor shall not permit the Trust Property or any part thereof to be removed, demolished, or materially altered without Beneficiary's prior written consent. Grantor shall maintain the Trust Property, and every portion thereof, in good repair and condition, except for reasonable wear and tear, and shall at Beneficiary's election restore, replace, or rebuild the Trust Property or any part thereof now or hereafter damaged or destroyed by any casualty (whether or not insured against or insurable) or affected by any Condemnation (as defined in Section 2.01). Grantor shall not commit or suffer any waste or strip of the Trust Property.

**1.08 Liens.** Grantor shall pay when due all claims for labor and materials that, if unpaid, might become a lien on the Trust Property. Grantor shall not create or suffer any lien, security interest, or encumbrance on the Trust Property that may be prior to, or on a parity with, the lien of this Trust Deed, except a security interest granted to Klamath First Federal to secure a loan of not more than \$95,000 ("Permitted Encumbrance").

**1.09 Impositions.** Grantor shall pay when due all taxes, assessments, fees, and other governmental and nongovernmental charges of every nature now or hereafter assessed against any part of the Trust Property or on the lien or estate of Beneficiary or Trustee therein (collectively, the "Imposition"); provided, however, that if by law any such Imposition may be paid in installments, Grantor may pay the same in installments, together with accrued interest on the unpaid balance thereof, as they become due. Grantor shall furnish to Beneficiary promptly upon request satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

**1.10 Limitations of Use.** Grantor shall not initiate or consent to any rezoning of the Trust Property or any change in any covenant or other public or private restrictions limiting or defining the uses that may be made of the Trust Property without the prior written consent of Beneficiary.

**1.11 Insurance**

(1) **Property and Other Insurance.** Grantor shall obtain and maintain during the term of this Trust Deed all risk property insurance (including flood insurance unless waived by Beneficiary) in an amount not less

than the full remaining principal balance of the Note or, if greater, in the amount of the full replacement cost of the Trust Property, without reduction for co-insurance.

(2) **Insurance Companies and Policies.** All insurance shall be written by a company or companies reasonably acceptable to Beneficiary; shall contain a long form mortgagee endorsement in favor of Beneficiary with proceeds under any policy payable to Beneficiary, subject to the terms of this Trust Deed; shall require 10 days' prior written notice to Beneficiary of cancellation or reduction in coverage; and shall contain a waiver of subrogation. Grantor shall furnish to Beneficiary on request a certificate evidencing the coverage required under this Trust Deed and a copy of each policy.

#### **1.12 Casualty/Loss Restoration**

(1) After the occurrence of any casualty to the Trust Property, whether or not covered by insurance, Grantor shall give prompt written notice thereof to Beneficiary. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantor.

(2) All insurance proceeds with respect to the Trust Property shall be payable to Beneficiary. At Beneficiary's discretion, insurance proceeds may be applied to the Obligations or may be released to Grantor, on such terms and conditions as Beneficiary elects, for restoration of the Trust Property.

#### **1.13 Actions to Protect Trust Property; Reserves**

(1) If Grantor shall fail to pay, perform, or observe any of its covenants hereunder, Beneficiary may, but shall not be required to, take such actions as it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended, or expended to maintain the lien or estate of this Trust Deed or its priority, or to protect or enforce any of Beneficiary's rights hereunder, shall be a lien on the Trust Property, shall be secured by this Trust Deed, and shall be paid by Grantor on demand, together with interest thereon at the rate provided in the Note. No payment or other action by Beneficiary under this section shall impair any other right or remedy available to Beneficiary or constitute a waiver of any Event of Default.

#### **WARNING**

Unless Grantor provides Beneficiary with evidence of the insurance coverage as required by this Trust Deed, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the collateral becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

Grantor is responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to Grantor's loan balance. If the cost is added to Grantor's loan balance, the interest rate on the underlying loan will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage.

The coverage that Beneficiary purchases may be considerably more expensive than insurance that Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

(2) If Grantor fails to promptly perform any of its obligations under Section 1.09 or 1.11 of this Trust Deed, Beneficiary may require Grantor thereafter to pay and maintain with Beneficiary reserves for payment of such obligations. In that event, Grantor shall pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions, insurance premiums, or both. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Grantor shall pay any deficiency to Beneficiary on demand. The reserves may be commingled with Beneficiary's other funds. Beneficiary shall credit to Grantor interest on such reserves at the minimum rate required from time to time by applicable law. Beneficiary shall not hold the reserves in trust for Grantor, and Beneficiary shall not be the agent of Grantor for payment of the taxes and assessments required to be paid by Grantor.

**1.14 Estoppel Certificates.** Grantor, within five days of request therefor, shall furnish Trustee and Beneficiary a written statement, duly acknowledge, of the amount of the Obligations secured by this Trust Deed and whether any offsets or defenses exist against the Obligations secured hereby. If Grantor shall fail to furnish such a statement within the time allowed, Beneficiary shall be authorized, as Grantor's attorney-in-fact, to execute and deliver such statement.

**ARTICLE II****Condemnation**

Should the Trust Property or any part thereof be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any other manner (a "Condemnation"), or should Grantor receive any notice or other information regarding such action, Grantor shall give immediate notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor ("Condemnation Proceeds") up to the full amount of the Obligations, and may appear in any Condemnation proceeding in its own or Grantor's name and make any settlement in connection therewith. Beneficiary may, at its option, apply the Condemnation Proceeds to the Obligations or release the proceeds to Grantor, on such terms and conditions as Beneficiary elects, for restoration of the Trust Property.

**ARTICLE III****Leases and Rents**

**3.01 Assignment of Leases and Rents.** Grantor assigns to Beneficiary all leases, rental contracts, and other agreements now or hereafter relating to the Trust Property or any portion thereof (the "Leases") and all rents and income derived therefrom (the "Rents"). Beneficiary shall have the right, but shall not be obligated, after the occurrence of an Event of Default, to notify any and all obligors under any of the Leases that the same have been assigned to Beneficiary; to discount, compromise, enforce, and collect the Leases and Rents; and to exercise any and all other rights and remedies of the lessor in connection with any of the Leases and Rents. Beneficiary shall have the right to use and apply and Rents received (1) for any costs and expenses incurred in connection with enforcing this assignment and collecting Rents; (2) for the maintenance of the Trust Property; and (3) for reduction of the Obligations in such order as Beneficiary shall determine. Beneficiary hereby gives Grantor a revocable license to collect and receive the Rents. Such license may be revoked by Beneficiary, without notice to Grantor, upon the occurrence of any Event of Default under this Trust Deed. Grantor agrees not to collect any Rents more than 30 days in advance. This assignment shall not operate to place responsibility for the care, maintenance, or repair of the Trust Property upon Beneficiary.

**3.02 Attorney-in-Fact.** Grantor irrevocably constitutes and appoints Beneficiary as its true and lawful attorney-in-fact, with power of substitution, to exercise any and all of the rights, powers, and authorities described in this Article III and to endorse any instruments given in payment of any Rents.

**ARTICLE IV****Security Agreement and Fixture Filing**

To secure the Obligations, Grantor hereby grants to Beneficiary a security interest in all fixtures located on the Trust Property. This Trust Deed shall constitute a security agreement and fixture filing under the Uniform Commercial Code statutes of the state of Oregon. The mailing address of Grantor and the address of Beneficiary from which information may be obtained are set forth in the introductory paragraph of this Trust Deed.

**ARTICLE V****Events of Default; Remedies**

**5.01 Events of Default.** Each of the following shall constitute an Event of Default under this Trust Deed and under each of the other Loan Documents:

- (1) **Nonpayment.** Failure to Grantor to pay any of the Obligations on or within 15 days after the due date.
- (2) **Breach of Other Covenants.** Failure of Grantor to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, in this Trust Deed, or in any other Loan Document.
- (3) **Misinformation.** Falsity when made in any material respect of any representation, warranty, or information furnished by Grantor or its agents to Beneficiary in connection with any of the Obligations.
- (4) **Other Default.** The occurrence of any other event of default under the Note, the Loan Documents, or any of the other Obligations
- (5) **Other Indebtedness, Secondary Financing.** Grantor's default beyond applicable grace periods in the payment of any other indebtedness secured by all or any portion of the Trust Property.

(6) **Bankruptcy.** The occurrence of any of the following with respect to Grantor, any guarantor of the Obligations, or the then owner of the Trust Property: (a) appointment of a receiver, liquidator, or trustee for any such party or any of its properties; (b) adjudication as a bankrupt or insolvent; (c) filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium, or insolvency law; (d) inability to pay debts when due; or (e) any general assignment for the benefit of creditors.

(7) **Transfer; Due-on-Sale.** Any sale, gift, conveyance, contract for conveyance, transfer, or assignment of the Trust Property, or any part thereof or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent. Any lease of or a term in excess of three years, and any lease containing an option to purchase the Trust Property or any portion thereof, shall be a transfer. The provisions of this subsection (7) shall apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived its rights in connection with any previous Transfer. Beneficiary may attach such conditions to its consent under this subsection (7) as Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary.

**5.02 Remedies in Case of Default.** If an Event of Default shall occur, Beneficiary or Trustee, as the case may be, may exercise anyone occur, Beneficiary or Trustee, as the case may be, may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

(1) **Acceleration.** Beneficiary may declare all or any portion of the Obligations immediately due and payable.

(2) **Rents.** Beneficiary may revoke Grantor's right to collect the Rents, and may collect the Rents. Beneficiary shall not be deemed to be in possession of the Trust Property solely by reason of exercise of the rights contained in this subsection (2).

(3) **Power of Sale.** Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Trust Property by advertisement and sale under applicable law.

(4) **Foreclosure.** Beneficiary may judicially foreclose this Trust Deed and obtain a judgement foreclosing Grantor's interest in all or any part of the Trust Property.

(5) **Fixtures and Personal Property.** With respect to any fixtures or other property subject to a security interest in favor of Beneficiary, Beneficiary may exercise any and all of the rights and remedies of a secured party under the Uniform Commercial Code.

**5.03 Sale.** In any sale under this Trust Deed or pursuant to any judgement, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as Beneficiary may elect. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Grantor, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, any purchase at any such sale. Beneficiary is hereby irrevocably appointed Grantor's attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold. Nevertheless, Grantor shall ratify and confirm any such sale or sales by executing and delivering to Beneficiary or to such purchaser or purchasers all such instruments requested by Beneficiary for such purpose.

**5.04 Cumulative Remedies.** All remedies under this Trust Deed are cumulative. Any election to pursue one remedy shall not preclude the exercise of any other remedy. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of any Event of Default.

**5.05 Application of Proceeds.** All proceeds from the exercise of the rights and remedies under this Article V shall be applied (1) to costs of exercising such rights and remedies; (2) to the Obligations, in such order as Beneficiary shall determine in its sole discretion; and (3) the surplus, if any, shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled thereto.

## ARTICLE VI General Provisions

**6.01 Time is of the Essence.** Time is of the essence with respect to all covenants and obligations of Grantor under this Trust Deed.

**6.02 Reconveyance by Trustee.** At any time or the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Trust Deed, without affecting the liability of any person for payment of the

## RESIDENTIAL TRUST DEED

Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

**6.03 Notice.** Except as otherwise provided in this Trust Deed, all notices shall be in writing and may be delivered by hand, or mailed by first-class certified mail, return receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth at the outset of this Trust Deed. Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the date of mailing; notices given by hand shall be deemed to have been given when actually received.

**6.04 Substitute Trustee.** In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

**6.05 Trust Deed Binding on Successors and Assigns.** This Trust Deed shall be binding on and inure to the benefit of the heirs, legatees, personal representatives, successors, and assigns of Grantor, Trustee, and Beneficiary.

**6.06 Indemnity.** Grantor shall, to the fullest extent allowed by law, hold Beneficiary and Trustee and, if either is a corporation or other legal entity, their respective directors, officers, employees, agents, and attorney harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interests and rights under this Trust Deed.

**6.07 Expenses and Attorney Fees.** Grantor shall pay all fees and expenses, taxes, assessments, and charges arising out of or in connection with the execution, delivery, and recording of this Trust Deed. If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to bankruptcy, eminent domain, or probate proceedings), and an attorney is employed by Beneficiary to appear in any such proceeding or seek relief from a judicial or statutory stay, or otherwise enforce Beneficiary's interests, then in any such event Grantor shall pay reasonable attorney fees, costs, and expenses incurred by Beneficiary in connection with the above mentioned events and any appeals. Such amounts shall be secured by this Trust Deed and, if not paid upon demand, shall bear interest at the rate specified in the Note.

**6.08 Applicable Law.** This Trust Deed shall be governed by the laws of the state of Oregon.

**6.09 "Person" Defined.** As used in this Trust Deed, the word "person" shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

**6.10 Severability.** If any provision of this Trust Deed shall be held to be invalid, illegal, or unenforceable, the other provisions of this Trust Deed shall not be affected.

**6.11 Entire Agreement.** This Trust Deed contains the entire agreement of the parties with respect to the Trust Property. No prior agreement or promise made by any party to this Trust Deed that is not contained herein shall be binding or valid.

**6.12 Joint and Several Liability.** In the event this Trust Deed is executed by two or more persons as Grantor, all of such person shall be liable, jointly and severally, for payment of all sums and performance of all other covenants in this Trust Deed.

**6.13 Standard for Discretion**

In the event this Trust Deed is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard shall be sole and unfettered discretion as opposed to any standard of good faith, fairness, or reasonableness.

**6.14 ORS 93.040 Warning.** THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Guarantors:

By: John W. Spradley  
John Spradley  
W.By: Sydney L. Spradley  
Sydney SpradleySTATE OF OREGON )  
 ) ss.  
County of Klamath )Personally appeared this 13<sup>th</sup> day of November, 2001, the above named John W. Spradley and Sydney L. Spradley (KK) who acknowledged the foregoing instrument to be her voluntary act and deed. Before me:Kristi L. Redd  
Notary Public for Oregon  
My Commission expires: 11/16/2003

John and Sydney Spradley

Grantor Grantor

State of Oregon, acting by and through its  
Oregon Economic AND Community Development CommissionBy: [Signature]  
Mark D. Huston, Manager  
Business Finance

## EXHIBIT A

The NW ¼ of the SW ¼ of Section 2, Township 41 South, Range 12 East, Willamette Meridian, Klamath County, Oregon; Except that portion thereof lying within the boundaries of the Transformer Road.