

UTC 1396-9781

2009-013636

Klamath County, Oregon



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10/20/2009 11:09:27 AM

Fee: \$62.00

After Recording Return Document To:

Albina Fuel Company
801 Main Street
Vancouver, WA 98660

Send Tax Statements to:

Albina Fuel Company
801 Main Street
Vancouver, WA 98660

QUITCLAIM DEED

(Oregon)

BNSF RAILWAY COMPANY, a Delaware corporation, (formerly known as The Burlington Northern and Santa Fe Railway Company and formerly known as Burlington Northern Railroad Company), of 2500 Lou Menk Drive, Fort Worth, Texas 76131-2830, hereinafter called "Grantor", releases and quitclaims, without any covenants of warranty whatsoever and without recourse to the Grantor, its successors and assigns, to **ALBINA FUEL COMPANY**, an Oregon corporation, of 801 Main Street, Vancouver, Washington 98660, hereinafter called "Grantee", all its right, title and interest, if any, in and to the real property (exclusive of any improvements thereon), subject, however, to all existing interests, including but not limited to all reservations, rights-of-way and easements of record or otherwise, situated in Klamath County, Oregon, hereinafter called "Property", being more particularly described as follows:

A tract of land in the N1/2 of the NW1/4 of Section 10, Township 39 South, Range 9 East, W.M., Klamath County, Oregon, being that portion of that certain 2.9 acre tract of land described in deed dated October 27, 1939 from Western Cities Company to Great Northern Railway Company recorded in Volume 125, Page 487, records of said county, lying Northerly of the following described line:

Commencing at a point on the South line of Hilyard Avenue, 867.74 feet East (932.35 feet as disclosed by County Survey No. 1709) of the intersection of the South line of Hilyard Avenue and the East line of Washburn Way; thence South 0°26'25" West, 907.89 feet to the True Point of Beginning for the line herein described; thence East 455.00 feet to point of ending.

The true consideration for this conveyance is \$108,601.00.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE

AMERITITLE has recorded this instrument by request as an accommodation only, and has not examined it for regularity and sufficiency or as to its effect upon the title to any real property that may be described therein.

624amt

PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

Grantee covenants and agrees as follows:

(a) Grantee's interest shall be subject to the rights and interests of Grantor, Grantor's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Grantor, Grantor's licensees, permittees or other third parties and whether or not of public record. Grantor does hereby reserve a perpetual easement on the Property for the use of such existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements by Grantor and Grantor's licensees, permittees and customers. Also, Grantor does hereby reserve a non-exclusive easement for the construction, maintenance and operation of one or more pipelines or fiber optic lines and any and all communications facilities as may be located in the future on the Property within 60 feet of the center line of any Main Track on or adjacent to the Property and as may be presently located on the Property.

(b) Grantee's interest shall further be subject to, and Grantor does hereby specifically reserve, all coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the Property, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property, together with the right of access at all times to exercise said rights.

(c) Any improvements constructed or altered on the Property after the date Grantor quitclaims its interest to Grantee shall be constructed or altered in such a manner to provide adequate drainage of water away from any of Grantor's railroad tracks on nearby property.

(d) Grantee has been allowed to make an inspection of the Property. **GRANTEE IS PURCHASING THE PROPERTY ON AN "AS-IS WITH ALL FAULTS" BASIS WITH ANY AND ALL PATENT AND LATENT DEFECTS, INCLUDING THOSE RELATING TO THE ENVIRONMENTAL CONDITION OF THE PROPERTY, AND IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER FROM GRANTOR AS TO ANY MATTERS CONCERNING THE PROPERTY,** including, but not limited to the physical condition of the Property; zoning status; tax consequences of this transaction; utilities; operating history or projections or valuation; compliance by the Property with Environmental Laws (defined below) or other laws, statutes, ordinances, decrees, regulations and other requirements applicable to the Property; the presence of any Hazardous Substances (defined below), wetlands, asbestos, lead, lead-based paint or other lead containing structures, urea formaldehyde, or other environmentally sensitive

building materials in, on, under, or in proximity to the Property; the condition or existence of any of the above ground or underground structures or improvements, including tanks and transformers in, on or under the Property; the condition of title to the Property, and the leases, easements, permits, orders, licenses, or other agreements, affecting the Property (collectively, the **"Condition of the Property"**). Grantee represents and warrants to Grantor that Grantee has not relied and will not rely on, and Grantor is not liable for or bound by, any warranties, guaranties, statements, representations or information pertaining to the Property or relating thereto (including specifically, without limitation, Property information packages distributed with respect to the Property) made or furnished by Grantor, the manager of the Property, or any real estate broker or agent representing or purporting to represent Grantor, to whomever made or given, directly or indirectly, orally or in writing. Grantee assumes the risk that Hazardous Substances or other adverse matters may affect the Property that were not revealed by Grantee's inspection and indemnifies, holds harmless and hereby waives, releases and discharges forever Grantor and Grantor's officers, directors, shareholders, employees and agents (collectively, **"Indemnitees"**) from any and all present or future claims or demands, and any and all damages, Losses, injuries, liabilities, causes of actions (including, without limitation, causes of action in tort) costs and expenses (including, without limitation fines, penalties and judgments, and attorneys' fees) of any and every kind or character, known or unknown, which Grantee might have asserted or alleged against Indemnitees arising from or in any way related to the Condition of the Property or alleged presence, use, storage, generation, manufacture, transport, release, leak, spill, disposal or other handling of any Hazardous Substances in, on or under the Property. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) capital expenditures necessary to cause the Grantor remaining property or the operations or business of the Grantor on its remaining property to be in compliance with the requirements of any Environmental Law, (c) Losses for injury or death of any person, and (d) Losses arising under any Environmental Law enacted after transfer. The rights of Grantor under this section shall be in addition to and not in lieu of any other rights or remedies to which it may be entitled under this document or otherwise. This indemnity specifically includes the obligation of Grantee to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any Hazardous Substances on the Property. The term **"Environmental Law"** means any federal, state or local statute, regulation, code, rule, ordinance, order, judgment, decree, injunction or common law pertaining in any way to the protection of human health or the environment, including without limitation, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, and any similar or comparable state or local law. The term **"Hazardous Substance"** means any hazardous, toxic, radioactive or infectious substance, material or waste as defined, listed or regulated under any Environmental Law, and includes without limitation petroleum oil and any of its fractions.

The covenants and agreements set forth in paragraphs (a) through (d), above, shall be binding upon Grantee and Grantee's heirs, successors and assigns, and shall be covenants running with the land benefiting Grantor and its heirs, successors and assigns.

TO HAVE AND TO HOLD the Property unto the said Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed by its authorized representative, attested by its Assistant Secretary, and its corporate seal to be affixed hereto on the 12th day of October, 2009.

BNSF RAILWAY COMPANY

By: David P. Schneider
David P. Schneider
Its: General Director-Land Revenue Management



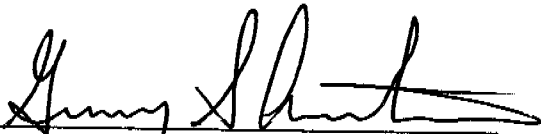
ATTEST:

By: Patricia Zbichorski
Patricia Zbichorski
Its: Assistant Secretary

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ACCEPTED:

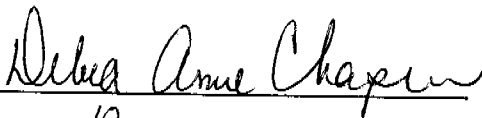
ALBINA FUEL COMPANY

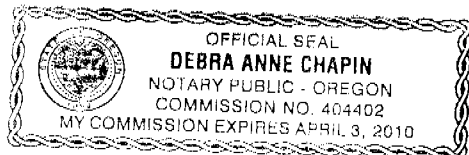
By: 
Its: Gregory S. Arntson
Secretary/Vice President

STATE OF Oregon
COUNTY OF Mult

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§ ss.
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On this 15th day of Oct, 2009, before me personally appeared Gregory S. Arntson who, being duly sworn, did say that he is the Secretary/Vice President of **ALBINA FUEL COMPANY**, an Oregon corporation, and that said instrument was signed in behalf of said corporation by authority of its board of directors; and he acknowledged said instrument to be his voluntary act and deed on behalf of said corporation.

Before me: 
Notary Public for: Oregon
My commission expires: 4/3/2010

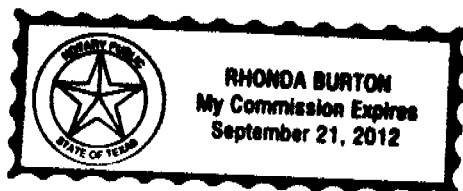


STATE OF TEXAS

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§ ss.
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COUNTY OF TARRANT

On this 12th day of October, 2009, before me personally appeared David P. Schneider and Patricia Zbichorski, who, being duly sworn, each for himself and not one for the other, did say that the former is the General Director-Land Revenue Management and the latter is the Assistant Secretary of **BNSF RAILWAY COMPANY**, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.



Before me: [Signature]

Notary Public for State of Texas

My commission expires: 9/21/2012

FORM APPROVED BY LAW

APPROVED LEGAL	KKH
APPROVED FORM	[Signature]
APPROVED	REW