

2018-007582

Klamath County, Oregon

06/25/2018 09:31:00 AM

Fee: \$112.00

**GRANTOR'S NAME AND ADDRESS:**

Union Pacific Railroad Company  
1400 Douglas Street, MS 1690 (Folder 3040-85)  
Omaha, NE 68179

**GRANTEE'S NAME AND ADDRESS:**

H & E Holdings LLC  
2736 Lakeshore Drive  
Central Point, Oregon 97502

**AFTER RECORDING, RETURN TO:**

H & E Holdings LLC  
2736 Lakeshore Drive  
Central Point, Oregon 97502

**UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO:**

H & E Holdings LLC  
2736 Lakeshore Drive  
Central Point, Oregon 97502

*(Space Above for Recorder's Use Only)*

3040-85

**QUITCLAIM DEED**

**UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (formerly known as Southern Pacific Transportation Company, a Delaware corporation, successor in interest through merger with The Modoc Northern Railway Company, a California corporation) ("Grantor"), releases and quitclaims to **H & E HOLDINGS LLC**, an Oregon limited liability company ("Grantee"), and unto its successors and assigns, all right, title and interest in and to the real property ("Property"), situated in Klamath County, State of Oregon, as more particularly described in **Exhibit A**, attached hereto and made a part hereof.

The true and actual consideration for this quitclaim is \$44,000.00.

EXCEPTING from this quitclaim and RESERVING unto Grantor, its successors and assigns, forever, all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered underlying the Property, including without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to

Grantor, its successors and assigns, but without entering upon or using the surface of the Property, and in such manner as not to damage the surface of the Property, or to interfere with the use thereof by Grantee, its successors and assigns.

The Property is quitclaimed by Grantor subject to the following covenants, conditions and restrictions which Grantee, by the acceptance of this Quitclaim Deed, covenants for itself, its successors and assigns, faithfully to keep, observe and perform:

(a) Fence. Grantee, at its sole cost and expense, shall install, within ninety (90) days after the date of delivery of this Quitclaim Deed, and thereafter maintain fencing or other barriers to prevent access to or encroachment on the railroad right-of-way of Grantor adjacent to the trackside boundary of the Property. The fencing or barrier must be of a design and type satisfactory to Grantor, and in compliance with applicable building codes. Grantee shall submit the plans for the fencing or barrier construction to:

Union Pacific Railroad Company  
Attn: Assistant Vice President – Real Estate (Folder No. 3040-85)  
1400 Douglas Street, Mail Stop 1690  
Omaha, Nebraska 68179

for review and approval. Grantor shall complete such review and make appropriate response to Grantee within twenty (20) days after receipt of such plans by Grantor. Grantor shall not unreasonably withhold its approval of such plans. Such approval does not constitute a guarantee or warranty that such plans comply with applicable governmental laws, rules, regulations or ordinances, or that the fence as constructed will be structurally sound.

(b) Railroad Proximity.

(i) Grantee acknowledges that the property abutting the Westerly boundary line of the Property is dedicated and used for railroad purposes, that railroad operations may create noise, vibrations, emissions, fumes and odors twenty-four (24) hours a day, and that the amount, nature and intensity of railroad operations may increase or change (collectively, the "Permitted Effects"). Grantee accepts the Property subject to the existence of the Permitted Effects. By acceptance of the Property, Grantee agrees that, at Grantee's sole cost and expense, as part of the development of the Property, Grantee shall design and install and/or construct and thereafter maintain improvements to reduce or limit the Permitted Effects and to comply with all governmental requirements, if any, which may be imposed as a condition to the development and use of the Property because of the Permitted Effects.

(ii) Grantee shall not, and hereby waives all rights to, (A) institute legal proceedings against Grantor to reduce or lessen the Permitted Effects, and (B) directly or indirectly participate in petition drives, lobbying

efforts or other activities seeking the enactment of federal, state or local laws or ordinances to reduce or lessen the Permitted Effects. Any party breaching such covenant shall reimburse Grantor for all costs incurred by Grantor to comply with any such orders, laws or ordinances, including, without limitation, attorney fees and court costs.

(iii) If Grantee sells or leases all or any portion of the Property, Grantee shall require all purchasers and tenants to acknowledge the location of the railroad operations abutting the Property and the existence of the Permitted Effects, and to agree in writing, for the benefit of Grantor, to comply with the above covenants.

(c) Restriction on Use. Grantee, its successors and assigns, may use the Property for industrial, office, and retail-oriented commercial business (for example, shopping center, filling station, restaurant) purposes, only, and for no other purposes whatsoever. Without limitation of the foregoing, the Property must not be used for any of the following purposes: (i) residential; (ii) lodgings or accommodations (including, without limitation, hotels, motels, boarding houses, dormitories, hospitals, nursing homes, or retirement centers); or (iii) cultural, educational, recreational or child-care facilities (including, without limitation, schools, kindergartens, day-care centers, gymnasiums, athletic fields, picnic grounds or parks).

(d) Environmental.

(i) "As Is" Sale. Grantee, for itself, its successors and assigns, including any successor owner of any interest in the Property, acknowledges and agrees that the Property has been sold and quitclaimed to and accepted by Grantee in an "AS IS" condition, with all faults, and Grantee acknowledges that the Property may have been used for railroad and/or industrial purposes, among other uses. Grantee acknowledges and agrees that any information Grantee may have received from Grantor or its agents concerning the Property (including, but not limited to, any lease or other document, engineering study or environmental assessment) was furnished on the condition that Grantee would make an independent verification of the accuracy of the information. Grantor does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property; in particular, without limitation, Grantor makes no representations or warranties with respect to the use, condition, title, occupation or management of the Property, or compliance with applicable statutes, laws, codes, ordinances, regulations, requirements (collectively, "Condition of the Property"). Grantee acknowledges and agrees that the Property has been sold and quitclaimed on the basis of Grantee's own independent investigation of the physical and environmental conditions of the Property. Grantee assumes the risk that adverse physical and environmental conditions may not have been revealed by its investigation.

(ii) Release and Indemnity. GRANTEE, FOR ITSELF, ITS SUCCESSORS AND ASSIGNS, INCLUDING ANY SUCCESSOR OWNER OF ANY INTEREST IN THE PROPERTY, HEREBY RELEASES GRANTOR, AND, TO THE MAXIMUM EXTENT PERMITTED BY LAW, INDEMNIFIES, DEFENDS AND SAVES HARMLESS GRANTOR, ITS AFFILIATES, THEIR EMPLOYEES, AGENTS, OFFICERS, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, CAUSES OF ACTION, LEGAL OR ADMINISTRATIVE PROCEEDINGS, CLAIMS, DEMANDS, FINES, PUNITIVE DAMAGES, LOSSES, COSTS, LIABILITIES AND EXPENSES, INCLUDING ATTORNEYS' FEES, IN ANY WAY ARISING OUT OF OR CONNECTED WITH THE KNOWN OR UNKNOWN CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, ANY CONTAMINATION IN, ON, UNDER OR ADJACENT TO THE PROPERTY BY ANY HAZARDOUS OR TOXIC SUBSTANCE OR MATERIAL), OR ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE OR REGULATION APPLICABLE THERETO, INCLUDING, WITHOUT LIMITATION, THE TOXIC SUBSTANCES CONTROL ACT, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AND THE RESOURCE CONSERVATION AND RECOVERY ACT. THE FOREGOING WILL APPLY REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF GRANTOR, ITS AFFILIATES, OR THEIR EMPLOYEES, AGENTS OR OFFICERS.

(e) Covenants to Run with Land. The foregoing covenants, conditions, and restrictions shall run with the Property, the burdens of which will be binding on the successors and assigns of Grantee and the benefits of which will inure to the successors and assigns of Grantor. A breach of the foregoing covenants, conditions, and restrictions, or the continuance thereof, may, at the option of Grantor, its successors or assigns, be enjoined, abated, or remedied by appropriate proceedings.

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 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

DATED this 27<sup>th</sup> day of April, 2018.

Attest:

**UNION PACIFIC RAILROAD COMPANY,**  
a Delaware corporation

*BJ Hubat*  
Assistant Secretary

By: *Chris D Goble*  
Name: **CHRIS D. GOBLE**  
Title: **Assistant Vice President - Real Estate**

(Seal)

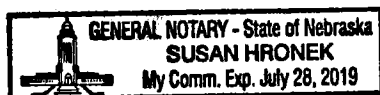
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

On April 27, 2018, before me, *Susan Hronek*,  
Notary Public in and for said County and State, personally appeared  
*Chris D Goble* and *BJ Hubat*, who are  
the **Assistant Vice President - Real Estate** and the Assistant Secretary, respectively, of  
UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, and who are personally  
known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose  
names are subscribed to in the within instrument, and acknowledged to me that they executed the  
same in their authorized capacities, and that by their signatures on the instrument the persons, or  
the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

*Susan Hronek*  
Notary Public

(Seal)



Grantee hereby accepts this Quitclaim Deed and agrees for itself, its successors and assigns, to be bound by the covenants set forth herein.

Dated this 20th day of June, 2018.

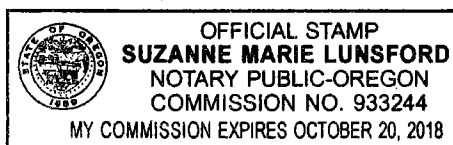
**H & E HOLDINGS LLC,**  
**an Oregon limited liability company**

By: Monte Bischoff & Danika Bischoff  
Its: Members

STATE OF OREGON       )  
                                  ) ss.  
COUNTY OF Jackson )

On June 20th, 2018, before me, Suzanne Marie Lunsford, Notary Public in and for said County and State, personally appeared Monte Bischoff and Danika Bischoff as Members of H & E HOLDINGS LLC, an Oregon limited liability company, and who is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to in the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



(Seal)

Suzanne Lunsford  
Notary Public

Union Pacific Railroad Company  
Exhibit A  
LEGAL DESCRIPTION

LEGAL DESCRIPTION FOR PROPOSED PROPERTY LINE ADJUSTMENT A PORTION OF THE UNION PACIFIC RAILROAD RIGHT OF WAY SITUATED IN THE SE 1/4 SE 1/4 OF SECTION 16, T39S, R9EWM, KLAMATH COUNTY, OREGON, BEING MOPE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE N89°50'36"W, ALONG THE SOUTH LINE OF SAID SECTION 16, 55.43 FEET TO A POINT 50.00 FEET NORTHEASTERLY, WHEN MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF THE UNION PACIFIC RAILROAD AT STATION 91+55.97; THENCE N33°30'54"W, PARALLEL WITH THE SAID CENTERLINE, 655.97 FEET TO A POINT 50.00 FEET NORTHEASTERLY, WHEN MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE OF THE UNION PACIFIC RAILROAD AT STATION 85+00; THENCE N56°29'06"E 100.00 FEET; THENCE S33°30'54"E, PARALLEL WITH SAID CENTERLINE, 605.93 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 16; THENCE S00°11'09"W 97.08 FEET TO THE POINT OF BEGINNING,

CONTAINING 1.51 ACRES, MORE OR LESS, WITH BEARINGS BASED ON RECORD OF SURVEY 5690 ON FILE AT THE OFFICE OF THE KLAMATH COUNTY SURVEYOR.

Union Pacific Railroad Company  
Real Estate Department, Omaha, NE  
Date 04-05-2018  
Fld. No. 03040-85  
RRM