



2018-014982

Klamath County, Oregon

12/14/2018 10:42:01 AM

Fee: \$112.00

**RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:**

Basin Fertilizer & Chemical Co., LLC
P.O. Drawer X
Merrill, Oregon 97633

(Space Above For Recorder's Use Only)

3007-92

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS:

That **UNION PACIFIC RAILROAD COMPANY**, a Delaware corporation (formerly known as Southern Pacific Transportation Company, a Delaware corporation) ("Grantor"), in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to it duly paid, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does REMISE, RELEASE and forever QUITCLAIM unto **BASIN FERTILIZER & CHEMICAL CO., LLC**, an Oregon limited liability company, whose address is P.O. Drawer X, Merrill, Oregon, 97633 ("Grantee"), its successors and assigns, forever, all of its right, title, interest, estate, claim and demand, both at law and in equity, of, in and to the real estate situate in Klamath County, State of Oregon, more particularly described in **Exhibit A**, attached hereto and made a part hereof.

EXCEPTING from this quitclaim and RESERVING unto Grantor, its successors and assigns, forever, the following:

(a) All minerals and all mineral rights of every kind and character now known to exist or hereafter discovered, 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 lands hereby quitclaimed, and in such manner as not to damage the surface of said lands or to interfere with the use thereof by Grantee, its successors or assigns.

112/ant.

(b) A non-exclusive PERPETUAL EASEMENT ("Access Easement") over and across that portion of the Property described in Exhibit A, attached hereto, and for the purpose of vehicular and pedestrian ingress and egress to Grantor's adjacent railroad right-of-way property ("Seller's Adjacent Property"). The Access Easement shall run with and be appurtenant to and for the benefit of Seller's Adjacent Property (and each and every parcel into which it may be divided) as the dominant tenement and shall be a burden upon the Property as the servient tenement.

The true and actual consideration for this quitclaim is \$50,000.00.

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

(a) Railroad Proximity.

(i) Grantee acknowledges that the property abutting the Southerly 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.

(b) Restriction on Use. The Property must not be used for (i) residential, (ii) lodgings or accommodations (including, without limitation, hotels, motels, boarding houses, dormitories, hospitals, nursing homes, or retirement centers), or (iii) educational or child-care facilities (including, without limitation, schools, kindergartens or day-care centers).

The foregoing and following covenants, conditions and restrictions will run with the Property. A breach of the foregoing and following 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.

Environmental Covenants:

(a) "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.

(b) 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.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. 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. 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES 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.

(Remainder of page left intentionally left blank)

IN WITNESS WHEREOF, Grantor has caused these presents to be signed by its duly authorized officers and its corporate seal to be hereunto affixed the 20 day of November, 2018.

Attest:

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

B. J. Kubat
Assistant Secretary

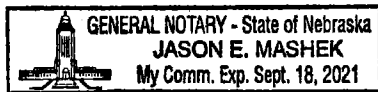
By: Chris Doble
Name: Chris D. Goble
Title: Assistant Vice President – Real Estate

(Seal)

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 20th day of NOVEMBER, 2018, by Chris D. Goble and B. J. KUBAT, Assistant Vice President – Real Estate and Assistant Secretary of UNION PACIFIC RAILROAD COMPANY, a Delaware corporation, on behalf of the corporation.

WITNESS my hand and official seal.



(Seal)

Jason E. Mashek
Notary Public

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 12 day of Dec, 2018.

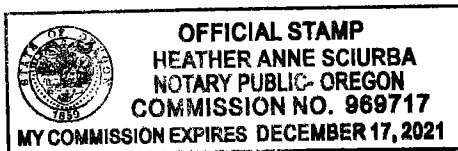
BASIN FERTILIZER & CHEMICAL CO., LLC,
an Oregon limited liability company

By: [Signature]
Name: CHRIS Moudry
Its: Member

STATE OF OREGON)
COUNTY OF Klamath) ss.

On Dec. 12, 2018, before me, Heather Sciuoba, Notary Public in and for said County and State, personally appeared CHRIS Moudry, Member of BASIN FERTILIZER & CHEMICAL CO., 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)

[Signature]
Notary Public

LEGAL DESCRIPTION

Exhibit A

THE LAND SHOWN AS PARCEL 1 OF LAND PARTITION 15-18, SITUATE IN THE NW 1/4 OF SECTION 8, TOWNSHIP 41 SOUTH, RANGE 11 EAST WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF THE LAND DESCRIBED IN BOOK 95, PAGE 6, KLAMATH COUNTY DEED RECORDS, WITH THE CENTER LINE OF MALONE ROAD; THENCE CONTINUING ALONG THE NORTH LINE OF SAID DEED RECORD NORTH 89°43'34" EAST 427.00 FEET TO A POINT; THENCE LEAVING SAID NORTH LINE SOUTH 00°11'32" WEST 192.00 FEET TO A POINT; THENCE SOUTH 89°43'34" WEST FOR A DISTANCE OF 427.00 FEET TO A POINT ON SAID CENTER LINE; THENCE CONTINUING ALONG SAID CENTER LINE NORTH 00°11'32" EAST 192.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.88 ACRES, MORE OR LESS.

TOGETHER WITH A 40 FOOT EASEMENT FOR INGRESS AND EGRESS, LOCATED IN SAID PARCEL 1 OF LAND PARTITION 15-18, BENEFITTING UNION PACIFIC RAILROAD COMPANY, ITS HEIRS AND ASSIGNS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL 1, THENCE NORTH 89°43'34" EAST A DISTANCE OF 427.00 FEET; THENCE SOUTH 00°11'32" WEST A DISTANCE OF 40.00 FEET; THENCE SOUTH 89°43'34" WEST A DISTANCE OF 427.00 FEET; THENCE NORTH 00°11'32" EAST A DISTANCE OF 40.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 0.39 ACRES, MORE OR LESS.