

File No. 34628

## L E A S E   A N D   A G R E E M E N T

THIS LEASE AND AGREEMENT is made and entered into as of  
 this 1st day of December, 1959, by and between

SAM M. DERMENGIAN and ANNE DERMENGIAN,  
 husband and wife,

Party (or parties) of the First Part, hereinafter  
 referred to as "Lessor,"

and

MAGMA POWER COMPANY, a Nevada corporation, Party  
 of the Second Part, hereinafter referred to as  
 "Lessee."

Recitals

Lessor is the owner of certain land situate in Lander and  
Eureka County<sup>ies</sup> in the State of Nevada which  
 the parties believe are suited for development of natural steam and  
 steam power, for use as such or for conversion into electric power  
 or for processing to obtain by-products therefrom. It is the desire  
 of Lessor and Lessee to enter into an agreement which will enable  
 the development of said natural steam for any of the aforesaid  
 purposes for the mutual profit of the parties.

Terms of Agreement

FOR AND IN CONSIDERATION OF \$ 37.50 paid to Lessor  
 by Lessee, and other valuable consideration, receipt of which is  
 hereby acknowledged, and in consideration of the covenants and agree-  
 ments hereinafter contained by the Lessee to be kept and performed,  
 Lessor has granted, leased, let and demised and by these presents  
 does grant, lease, let and demise to Lessee, its grantees, successors  
 and assigns, upon and subject to the terms and conditions hereinafter  
 set forth, the land hereinafter described, with the sole and exclusive  
 right to Lessee to drill for, produce, extract, take, remove and sell

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steam and steam power from, and to store, utilize, process, convert and otherwise treat with such steam and steam power upon, said land, during the term hereof, with the right of entry thereon and use and occupancy thereof at all times for said purposes and the furtherance thereof, including the right to construct, use and maintain thereon and to remove therefrom structures, facilities and installations, pipe lines, utility lines, power and transmission lines. The possession by Lessee of said land shall be sole and exclusive for the purposes hereof and for purposes incident or related thereto, excepting that Lessor reserves the right to use and occupy said land, or to lease or otherwise deal with the same, without interference with Lessee's rights, for residential, agricultural, commercial, horticultural or grazing uses, or for mining of minerals lying on the surface of or in vein deposits on or in said land, or for any and all uses other than the uses and rights permitted to Lessee hereunder. The land which is the subject of this lease is situate in the County<sup>ies</sup> of Lander and Eureka, State of Nevada, and is described in Exhibit "A" attached hereto and made a part hereof, including also in the leased land all rights of Lessor, presently owned or hereafter acquired, in and under roads, ditches, and rights of way traversing or adjacent to said land.

The terms and conditions of this lease are as follows, to-wit:

1. This lease shall be for a term of twenty-five (25) years from and after the date hereof, and so long thereafter as there is commercial production of steam, electric power, or any by-products from the condensates of steam, derived or produced from the property leased hereunder, and for so long, as well, as Lessee is prevented from producing same, or the obligations of Lessee hereunder are suspended, for the causes as hereinafter set forth.

2. The initial consideration paid upon execution hereof constitutes rental payable hereunder in advance for six (6) months. Thereafter, until such time as Lessee shall commence the drilling of a well to test whether sufficient power potential can be developed

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on the leased land, Lessee shall pay to Lessor monthly in advance the sum of \$ 3.13 per month so long as this lease shall remain in effect, it being understood and agreed that upon commencement of the drilling of such well, the obligations of Lessee to pay rental hereunder shall terminate. After commencing the drilling of such well, Lessee shall continue the drilling thereof diligently and in good faith to such depth as Lessee shall deem proper to test whether or not sufficient power potential can be developed on said land. In the event the first well drilled on the leased land does not indicate or establish to the satisfaction of Lessee sufficient power potential, Lessee shall either commence the drilling of a second well on the leased land within six (6) months after completion or abandonment of said well (during which said six months' period Lessee shall not be required to pay any rental hereunder), or shall thereafter, commencing upon expiration of said six months' period, pay to Lessor the aforesaid monthly rental, monthly in advance, until such time as the drilling of a second well shall be commenced on the leased land. In the event Lessee shall drill a second well on the leased land to such depth as Lessee shall deem proper to test whether or not sufficient power potential can be developed on said land, and if such second well does not indicate or establish to the satisfaction of Lessee sufficient power potential, Lessee shall either commence the drilling of a third well on the leased land within six (6) months after completion or abandonment of said second well (during which said six months' period Lessee shall not be required to pay any rental hereunder), or Lessee shall thereafter, commencing upon expiration of said six months' period, pay to Lessor the aforesaid monthly rental, monthly in advance, until such time as the drilling of a third well shall be commenced on the leased land, and the provisions of this paragraph shall be applicable to such third well and to any and all subsequent wells drilled by Lessee upon the leased land until Lessee shall have drilled and completed a well on the leased land which shall produce steam of sufficient power potential. It is expressly understood and agreed by

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the parties hereto:

- (a) That if within Three (3) years from the date of this agreement Lessee shall have failed to complete one or more wells on the leased land producing steam of sufficient power potential, as hereinafter defined, or producing by-products of steam condensates of commercial value and in commercial quantities then Lessor, at its option, may terminate this lease;
- (b) That if within Five (5) years from the date of this agreement Lessee shall have failed to make or arrange for a bona fide commercial sale or sales of steam, steam power or by-products of steam condensates produced from wells on the leased land then Lessor, at its option, may terminate this lease.

3. At such time as Lessee shall have drilled and completed any well or wells on the leased land which shall indicate to the satisfaction of Lessee a sufficient power potential, Lessee shall have the right at any time thereafter to construct and install facilities for the commercial sale or use of steam or steam power or for the extraction of by-products thereof or for development of electric power, from the use of steam or steam power, and for commercial sale thereof. Such facilities for the utilization of the steam or steam power, or the extraction of by-products thereof developed on the leased land may be installed or situated on the leased land or on lands other than the leased land at Lessee's option. Upon completion of a well or wells on the leased land which shall indicate a sufficient power potential, or upon the commencement of construction or installation of facilities for the utilization or sale, as aforesaid, of steam or steam power, or upon commencement of the sale of such steam or steam power, then upon any such occurrence the monthly rental obligations of Lessee hereunder shall cease.

4. Lessee shall have the right to drill such wells on the leased land as Lessee may deem desirable for the purposes hereof; provided, however, that notwithstanding any provisions of this lease to the contrary, Lessee shall utilize for such purpose only so much of the leased land as shall be reasonably necessary for Lessee's operations and activities thereon and shall interfere as little as is reasonably possible with the use and occupancy of the leased land by Lessor. No such well shall be drilled within an area of 100 feet of Lessor's house or surrounding buildings without the consent of Lessor.

5. Lessee shall have all rights to all steam, steam power, products of steam, condensates and by-products thereof, produced from the leased land during the term hereof, subject to the payment of royalty thereon as herein provided.

6. Lessee shall pay to Lessor as royalty Ten Percent (10%) of the gross proceeds received by Lessee from the sale of steam, or steam power, as such, produced from the leased land, and from the sale of by-products removed from steam, or which are condensates of steam, produced from the leased land. Except as to by-products removed from steam, said royalty shall be computed and paid for on the basis of pounds of steam produced, saved and sold by Lessee at and as of the point of origin on the leased land. Lessee shall have the right to commingle, for the purpose of utilizing, selling or processing, the steam or steam power produced from the leased land, with the steam or steam power produced from other lands, and to meter or gauge the production of steam or steam power from the leased land, and to compute and pay Lessor's royalty on the basis of such production as so determined. Lessee shall pay to Lessor on or before the twenty-fifth day of each and every month the royalties accrued and payable for the preceding calendar month, and in making such royalty payments Lessee shall deliver to Lessor statements setting forth the basis for computation and determination of such royalty. In the event that the production of steam or the by-products therefrom from the leased land or from lands in the general area of the leased land should at any time exceed the demand therefor or the facilities for use thereof, and the Lessee elects to reduce the total volume of steam produced or consumed, then in that event each well participating on a commingling basis shall be reduced in a percentage amount equal to its proportion of the whole.

7. Lessee shall not be required to account to Lessor for or to pay any royalty on steam, steam power or by-products or condensates of steam produced by Lessee on the leased land which are not utilized, saved or sold, or which are used by Lessee in its operations on or with respect to the leased land for or in connection with the development and production of steam.

Lessee shall have the right to use and utilize such water or water rights in, on, from or appurtenant to the leased land as Lessee may reasonably require in connection with its operations on the leased land for development and production of steam and the utilization of same, without payment therefor to Lessor, provided that such use by Lessee shall not interfere with Lessor's requirements with respect to the use thereof on the leased land or Lessor's contractual commitments for the use thereof on lands other than the leased lands.

The parties understand that the leased land is being purchased by Lessor under contract under which legal title is retained by Crescent Valley Ranch and Farms, a Nevada corporation, and rents and royalties shall be paid to Lessor so long as Lessor is not in default under such contract of purchase. ~~In the event Lessor at the time of making this lease surrenders interest in the leased land then the fee simple estate therein and thereon, then the rentals and royalties accruing hereunder shall be paid to Lessor in the proportions which Lessor's interest bears to the entire fee simple estate in the leased land.~~

9. There is hereby expressly reserved to Lessor and to Lessee the right and privilege to convey, transfer or assign, in whole or in part, or to deal with in any manner, subject to the provisions hereof, their respective rights and interests in and under this Lease and Agreement or in the leased land, or the steam, steam power, electric power, or by-products of steam, produced on or from the leased land, but in the event Lessor shall sell or transfer any part or parts of the leased land or any interest in the aforesaid products therefrom Lessee's obligations hereunder shall not thereby be altered, increased or enlarged, but Lessee may continue to operate the leased land and to pay and settle rents and royalties as an entirety.

10. The obligations of Lessee hereunder shall be suspended (but without impairment of Lessor's rights under (a) or (b) of Clause 2) and the term of this lease shall be extended, as the case may be, while Lessee is prevented from complying therewith, in whole or in part, by strikes, lockouts, riots, actions of the elements, accidents, delays in transportation, inability to secure labor or materials in the open market, laws, rules or regulations of any federal, state, municipal or other governmental agency, authority or representative, inability to secure, or absence of, a market for commercial sale of

steam or steam power developed on or from the leased land or for electric power developed therefrom, or other matters or conditions beyond the reasonable control of Lessee, whether or not similar to the conditions or matters herein specifically enumerated.

11. Lessee shall pay all taxes on Lessee's structures and improvements placed upon the leased land by Lessee, and shall pay Ninety Percent (90%) of the taxes, if any, levied and assessed against any and all products of Lessee's operations hereunder which shall be stored on the leased land on the day of each year fixed for the assessment of property taxes with respect to same, and Lessor shall pay Ten Percent (10%) thereof, and Lessee shall pay Ninety Percent (90%) of such taxes as may be levied and assessed against the right to produce steam, electric power or by-products of steam in the event any such taxes shall be levied, and Lessor shall pay Ten Percent (10%) thereof. Lessor shall pay all taxes levied and assessed against the leased land as such and against any rights with respect thereto not covered by this lease and shall pay all taxes levied and assessed against all structures and improvements placed on the leased land by Lessor.

12. Lessor, or its agents, may at all times examine said land and the workings, installations and structures thereon and operations of Lessee thereon, and may inspect the books, records, and engineering and geological data, exclusive of any secret processes or data pertaining thereto, of Lessee with respect to matters pertaining to the payment of royalties to Lessor. Lessee agrees, on written request, to furnish to Lessor copies of such information.

13. All the labor to be performed and materials to be furnished in the operations of Lessee hereunder shall be at the cost and expense of Lessee, and Lessor shall not be chargeable with, or liable for, any part thereof, and Lessee shall protect said land against liens of every character arising from its operations thereon. Lessee, at its own expense, prior to commencing operations on the leased land, shall obtain and shall maintain adequate Workmen's Compensation insurance, and shall also obtain and maintain public

liability insurance coverage in amounts of not less than \$100,000 for one person and \$300,000 for one accident, and property damage insurance coverage in an amount of not less than \$50,000. Lessee shall protect Lessor against damages of every kind and character which may be occasioned to any of the parties hereto or to any other persons by reason of the operations or workings of the Lessee upon said leased land.

14. In the event any buildings or personal property shall be damaged, destroyed or required to be removed, or any grazing land destroyed, because of Lessee's operations on the leased land, Lessee shall be liable for payment of the reasonable value thereof. In the event the Lessee shall elect to locate a wellsite and an access road thereto on agricultural land of Lessor's at the time under cultivation, then Lessee shall pay to Lessor a sum agreed upon between Lessor and Lessee to be based upon the value of the crop actually destroyed or withheld from production by reason of Lessee's operations thereon. Upon the written request of Lessor, Lessee agrees to lay all pipe lines which it constructs through cultivated fields below plow depth, and upon similar request, agrees to fence all sump holes or other excavations to safeguard livestock on said land. Upon completion or abandonment of any well drilled on the leased land, or upon the termination of this lease, Lessee shall level and fill all sump holes and excavations and shall remove all debris and shall leave the location of such well in a clean and sanitary condition. Lessee in its operations on the leased land shall at all times have due and proper regard for the rights and convenience, and the health, welfare and safety of Lessor and of all tenants and persons lawfully occupying the leased land. In the event Lessee desires to abandon any completed well drilled on the leased land, Lessee shall notify Lessor of Lessee's intention so to do, and if Lessor within five (5) days after such notice elects to retain said well as a water well, and so notifies Lessee, Lessee shall not abandon such well and shall be freed of the obligations of abandoning same, and Lessor shall cause Lessee to be released from any abandonment bond posted by Lessee with respect to



said well and shall post a new bond therefor, if same shall be required by any governmental agency. Any wells drilled by Lessee hereunder shall be drilled in such manner so as not to affect any existing water well or water wells of Lessor on the leased land, and sufficient casing shall be set and cemented in such wells drilled by Lessee so as to seal off and protect surface waters.

15. Upon the violation of any of the terms or conditions of this lease by Lessee and the failure of Lessee to begin in good faith to remedy the same within sixty (60) days after written notice from Lessor so to do, specifying in said notice the nature of such default, then at the option of Lessor this lease shall forthwith cease and terminate and all rights of Lessee in and to the leased land shall be at an end, except that in the event of such termination Lessee shall have the right to remove from the leased land all surface facilities and improvements of whatsoever kind and character placed upon the leased land by Lessee. Lessee shall have the right at any time prior or after default hereunder, upon payment of the sum of One Hundred Dollars (\$100.00) to Lessor, to quitclaim and surrender to Lessor all right, title and interest of Lessee in and to the leased land and thereupon all rights and obligations of the parties hereto one to the other shall cease and terminate, save and except as to accrued monetary or royalty obligations of Lessee then payable as to which Lessee shall remain liable to Lessor.

16. Lessee shall have the right at any time and from time to time to remove from the leased land any and all machinery, equipment, structures, installations and property of every kind and character placed upon said leased land by the Lessee, provided that such removal shall be completed within a reasonable time after termination of this lease in the event such removal shall occur after termination of this lease. In the event that any damages to Lessor's property may be occasioned by the removal of Lessee's property as above set forth then Lessee agrees to compensate Lessor for such damages.

17. Lessor hereby warrants and agrees to defend title to the leased land and agrees that Lessee, at its option, may pay and

discharge any taxes, mortgages, trust deeds or other liens or encumbrances existing, levied or assessed on or against the leased land, and in the event Lessee exercises such option, Lessee shall be subrogated to the rights of any holder or holders thereof, and shall have the right to reimburse itself by applying to the discharge of any such mortgage, tax or other lien or encumbrance any royalties or rentals accruing to Lessor hereunder.

18. The phrase, "sufficient power potential" as used herein shall be deemed to mean that volume and character of steam, or steam power, produced from wells drilled into the leased land, which, in the judgment of Lessee, shall be sufficient for the commercial sale thereof or which, in Lessee's judgment, shall warrant the construction of facilities for the commercial use or sale of such steam or steam power or for the development of electric power, utilizing such steam or steam power, for commercial sale.

19. Any notice or other communication hereunder from Lessor to Lessee shall be given in writing by delivering same personally to Lessee or by sending same by registered or certified mail, postage prepaid, addressed to Lessee at 631 South Witmer Street  
Los Angeles 17, California,

and any notice or other communication hereunder from Lessee to Lessor shall be given in writing by delivering same personally to Lessor or by sending same by registered or certified mail, postage prepaid, addressed to Lessor at 318 Cherrywood Street, West Covina, California.

Any notice mailed, as aforesaid, shall be deemed given and received within 72 hours after the deposit thereof in the United States mail within the State in which the leased land is situated, and if deposited in the United States mail outside of such State, shall be deemed to have been given and received within 96 hours after the deposit of same in the United States mail. The parties may upon written notice at any time and from time to time change their respective addresses for the purposes hereof.

20. This lease shall terminate immediately upon the adjudication of the Lessee as an insolvent or bankrupt or upon Lessee's executing a general assignment for the benefit of creditors.

21. In the event any part or portion or provision of this instrument shall be found or declared to be null, void or unenforceable for any reason whatsoever by any Court of competent jurisdiction or any governmental agency having authority thereover, then and in such event only such part, portion or provision shall be affected thereby, and such finding, ruling or decision shall not in any way affect the remainder of this instrument or any of the other terms or conditions hereof, or any lesser rights or obligations embraced within any provision so declared to be void or unenforceable which such lesser rights or obligations are not, or would not be so held to be, void or unenforceable, which said remaining terms and conditions and such lesser rights or obligations, as aforesaid, of this instrument shall remain binding, valid and subsisting and in full force and effect between the parties hereto, it being specifically understood and agreed that the provisions hereof, and the lesser rights or obligations embraced within such provisions, are severable for the purposes of the provisions of this clause.

22. This Lease and Agreement and all of the terms, covenants and conditions hereof shall extend to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed as of the date hereinabove first written.

*Sam M. Dermengian*  
 \_\_\_\_\_  
 Sam M. Dermengian

*Anne Dermengian*  
 \_\_\_\_\_  
 Anne Dermengian

LESSOR

MAGMA POWER COMPANY, a corporation

By *Willis A. DePaoli*  
 \_\_\_\_\_  
 President

By *James A. Quinn*  
 \_\_\_\_\_  
 Secretary

LESSEE

EXHIBIT "A"

The land which is the subject of the Lease and Agreement to which this is attached is situate in the County of Eureka, State of Nevada, described as follows, to wit:

The Southwest quarter (SW/4) of Section 17,  
Township 31 North, Range 48 East.

STATE OF California )  
COUNTY OF Los Angeles ) SS.

On This 17<sup>th</sup> day of December A.D., 1959, before me, the undersigned, a Notary Public in and for said County and State, personally appeared SAM M. DERMENGIAN and ANNE DERMENGIAN, known to me to be the persons whose names are subscribed to the within Instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Billie L. Cowell  
Notary Public in and for said  
County and State.  
BILLIE L. COWELL  
My commission expires:  
My Commission Expires July 14, 1961

STATE OF California )  
COUNTY OF Los Angeles ) SS.

On This 9<sup>th</sup> day of December, A.D., 1959, before me, the undersigned, a Notary Public in and for said County and State, personally appeared B. C. McCABE, known to me to be the President, and JOSEPH W. AIDLIN, known to me to be the Secretary of MAGMA POWER COMPANY, the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the within Instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Inez Thompson  
Inez Thompson, Notary Public in and for said  
County and State.  
My commission expires: Jan. 31, 1962

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CONSENT TO AND JOINDER IN LEASE AND AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

That CRESCENT VALLEY RANCH AND FARMS, a Nevada corporation, the owner of fee title, subject to contract for purchase thereof in favor of Sam M. Dermengian and Anne Dermengian, husband and wife, of the land situate in Eureka/County, State of Nevada, described as the Southwest quarter (SW/4) of Section 17, Township 31 North, Range 48 East, does hereby consent to, join in, ratify and confirm the foregoing Lease and Agreement dated December 1, 1959, covering said land, between said Sam M. Dermengian and Anne Dermengian, as Lessor, and Magma Power Company, as Lessee, upon the condition that in the event the undersigned retakes possession of said land or terminates said contract to purchase same because of default under said contract by the said purchasers thereunder, after notice thereof to said Lessee, all rents and royalties thereafter accruing and payable under said Lease and Agreement shall be payable to the undersigned.

The provisions hereof shall be binding upon and inure to the benefit of the successors and assigns of the undersigned.

DATED: December 1, 1959.

CRESCENT VALLEY RANCH AND FARMS, a Nevada corporation,

By Arthur Seltzer  
Arthur Seltzer, President and Authorized Officer

Notary Public in and for said County and State  
L. CCWELL My Commission Expires July 14, 1962

Recorded at the request of Magma Power Company January 4, A.D., 1960 At 06 minutes past 8 A. M.

Willis A. DePaoli -Recorder