

LEASE AND AGREEMENT
GEOHERMAL STEAM

THIS LEASE AND AGREEMENT is made and entered into as of this 11th day of November, 1974, by and between DAY CATTLE COMPANY, a Nevada corporation, and WILLAMETTA K. DAY (collectively the "Lessor"), and MAGMA ENERGY, INC., a Nevada corporation ("Lessee").

R E C I T A L S

Lessor is the owner of certain land situate in Eureka County in the State of Nevada which the parties believe are suited for development and utilization of natural steam and steam power and the earth's natural heat and energy present in or obtainable from said land, for use of such natural steam, natural heat and energy as such or for conversion into electric power. It is the desire of Lessor and Lessee to enter into an agreement which will enable the development and utilization of said natural steam, and the earth's natural heat and energy, for any of the aforesaid purposes and it is the intention of the parties that Lessee shall have under this Lease and Agreement, and subject to the terms and conditions hereof, all rights and power necessary or convenient to carry on the business of developing and utilizing steam and steam power. For convenience, the words and phrases "steam", "natural steam", "steam power", "thermal energy", "the earth's natural heat", "the earth's natural energy", and similar words and phrases used in this lease are generally referred to in this instrument as "steam" or

as "steam and steam power", and are more specifically hereinafter defined.

Terms of Agreement

For valuable consideration, receipt of which is hereby acknowledged, and in consideration of the covenants and agreements hereinafter contained, to be kept and performed by Lessee, Lessor does hereby grant, lease, let and demise to Lessee, its grantees, successors and assigns, subject to the terms and conditions hereinafter set forth, the property described in Exhibit "A" attached hereto and by this reference made a part hereof, (the "Property"), with the sole and exclusive right to Lessee to explore and drill for, produce, extract, remove and sell geothermal steam and steam power (excluding oil, gas hydrocarbons or other minerals) from, and utilize, process, convert and otherwise treat such steam and steam power upon said Property 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 the Property 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 the Property, 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 in,

on or under the Property, or for any and all uses other than the uses and rights permitted to Lessee hereunder.

The terms and conditions of this lease are as follows:

1. Term.

This lease shall be for a term of seven years from and after the date hereof, and so long thereafter as there is commercial production of steam, or the Property is capable of commercial production and an agreement as set forth in Paragraph 3(b) hereof has been executed, or there is production of electric power, derived or produced from the Property, and for so long as well, as Lessee is prevented from producing same, or the obligations of Lessee hereunder are suspended, for the causes hereinafter set forth.

2. Drilling of Wells.

Unless this Lease is terminated prior thereto, Lessee shall commence the drilling of a well on the Property no later than December 31, 1979 to test whether steam in commercially paying quantities can be developed on the Property. 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, but not less than a depth of 5,000 feet, unless Lessee shall produce commercially paying quantities at a shallower depth or mechanical or geological difficulties which in the bona fide opinion of Lessee's geologists justify Lessee's

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ceasing drilling at a shallower depth, to test whether or not steam in commercially paying quantities can be developed on the Property. In the event Lessee fails to commence said well by said date, this lease shall terminate without notice of demand and shall thereafter be of no further force and effect. In the event such well is completed but is not producing in commercially paying quantities or drilling thereof is discontinued prior to reaching 5,000 feet as herein provided, and such well does not produce commercially paying quantities at such shallower depth, this lease shall terminate unless within 12 months following December 31, 1979, Lessee shall commence the drilling of a second well on the Property to a depth of not less than 5,000 feet or a shallower depth as permitted herein. If such second well does not indicate or establish steam in commercially paying quantities, this lease shall terminate without notice or demand and be of no further force or effect unless Lessee shall thereafter commence the drilling of a third well on the Property within the next ensuing 12 month period after completion or abandonment of said second well. If such third well does not indicate or establish steam in commercially paying quantities, this lease shall terminate without notice or demand and be of no further force or effect.

3. Completion and Production.

It is expressly understood and agreed by the parties hereto:

- (a) That if within seven years from the date of this Agreement Lessee shall have failed to complete one or more wells on the Property

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separately or collectively producing, or being capable of producing, steam in commercial quantities, then Lessor, at its option, may consider such circumstances as a default on the part of Lessee hereunder, and Lessor may forthwith or at any time thereafter during which such condition exists, upon giving written notice to Lessee, terminate this Lease and Agreement; except that if on said date Lessee is engaged in drilling a well pursuant to the provisions hereof the time herein provided for shall be extended for the period required by Lessee to complete drilling of said well diligently and in good faith and for an additional period of six months to test said well to determine whether or not such well separately is or such well together with one or more other wells are capable of producing steam in commercial quantities.

(b) That if within seven years from the date of this Agreement, unless theretofore terminated as provided in this Agreement, Lessee shall have failed to make or arrange for a bona fide commercial sale or sales of steam or steam power produced from a well or wells on the Property, including a definitive schedule commitment for construction of facilities and an estimated projection for reasonable commencement of power generation, then Lessor, at its option may consider such circumstances a default on the part of Lessee hereunder; and Lessor may forthwith, or at any time thereafter during which such condition exists,

upon giving written notice to Lessee, terminate this Lease and Agreement; provided, however, that if Lessee shall on or before said date enter into an agreement or agreements providing for the purchase of steam for generation of electric power and providing also for the installation or availability of facilities for such purpose, or purposes, but which such agreement or agreements provides that any installation of such facilities shall not be required to be commenced until after an additional period of testing the power potential of the well or wells on the Property, or until an additional amount of steam as fixed in such agreement or agreements shall be produced from the Property, such agreement shall be deemed to be a compliance with the provisions hereof.

(c) At any time after seven years from the date of this Agreement, upon requests in writing from Lessor, Lessee shall quitclaim and release its surface interest to Lessor under this Agreement on any portions of the Property not reasonably required in Lessee's operation of wells, pipelines and other facilities including access thereto.

4. Property Substitution.

At any time prior to commencement of the drilling of a well, as set forth in Paragraph 2 hereof, on each such section of the Property by Lessee, but not later than one year from the date hereof, Lessor shall have the option of designating the acreage equivalent of four sections of the

Property which shall be deleted from this Lease excluding any section on which a well shall have been commenced. Lessor shall exercise said option by written notice to Lessee delivered as set forth in Paragraph 19 hereof. In such event, Lessor, or Lessor's nominee, may designate and reserve the acreage equivalent of 16 additional sections (the "Reserved Property") of the adjacent and surrounding property owned by Lessor, described in Exhibit B attached hereto (the "Non-Leased Property"). Lessee shall then designate the acreage equivalent of four sections of the Non-Leased Property, other than the Reserved Property, as a substitution for the four sections deleted by Lessor from this Lease. This Lease shall thereafter be amended to revise the legal description of the Property accordingly and shall otherwise remain in full force and effect. The term "acreage equivalent", as used herein, shall mean divisions of property not less than the available acreage within a section owned by Lessor and available for lease for geothermal steam production. Lessee shall not commence the drilling of more than one well until completion or abandonment of wells previously commenced in accordance with Paragraph 2 hereof and shall not work more than one string of tools on the Property during the first year of the term of this Lease.

5. Facilities.

At such time as Lessee shall have drilled and completed any well or wells on the Property which shall indicate steam in commercially paying quantity, 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 produced on the Property, or for development of electric power from the use of steam or steam power, and for commercial sale thereof, and at such time to purchase from the Lessor at the fair market value the land so required and used for such purposes. Such facilities for the utilization of the steam or steam power, developed on the Property, may be installed or situated on the Property or on lands other than the Property at Lessee's option.

6. Production Wells.

Lessee shall have the right to drill such well or wells on the Property as Lessee may deem desirable for the purposes hereof including wells for injection or reinjection purposes; provided, however, that notwithstanding any provisions of this Lease to the contrary, Lessee shall utilize for such purpose or purposes only so much of the Property as shall be reasonably necessary for Lessee's operations activities thereon and shall interfere as little as is reasonably possible with the use and occupancy of the Property by Lessor. No such well shall be drilled within an area of 300 feet of residential improvements or agricultural barns, arenas, show rings and similar structures constructed on the Property or adjacent property owned by Willametta K. Day without the consent of Lessor.

7. Rent and Royalties.

(a) Lessee shall pay to Lessor, in advance, on the first day of each year for the first three years of the term of this Lease, as annual rental for the Property a sum equal to \$1.50 per acre. For the fourth and each

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subsequent year of the term of this Lease, said rental shall be increased to \$2 per acre. Said rental calculation shall be based on the acreage held by Lessee on commencement of this Lease, and the total of such annual rental shall not be reduced so long as this Lease is in effect as to any portion of the Property. Said rental shall be credited against the royalty payable by Lessee pursuant to Paragraph (b) hereafter.

(b) Lessee shall pay to Lessor as royalty a percentage of the gross proceeds (as defined and subject to the limitations set forth hereafter) received by Lessee from the sale of steam, or steam power, as such, produced, saved and sold by Lessee from the Property at and as of the point of origin on the Property, in the amount of 1/6. Lessee shall have the right to commingle, for the purpose of storing, transporting, utilizing, selling or processing, the steam or steam power produced from the Property, with the steam or steam power produced from other lands and to meter, gauge or measure the production from the Property, 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 25th 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 from the Property or from lands in the general area of the Property should at any time exceed the demand therefor or the facilities for

use thereof, and the Lessee elects to reduce the total production, then in that event the production of each well participating on a commingling basis shall be reduced in a percentage amount equal to its proportion of the total production of all participating wells prior to such reduction.

(c) Royalty on steam utilized for electric power generation shall be computed on the basis of the number of kilowatt hours of electric power generated by the use of such steam, produced from the Property at and as of the point of origin on the Property. However, it is the intent of Lessor and Lessee that the royalties shall be calculated on the highest price available for the purchase of steam or steam power produced from the Property at the time of contracting for the sale thereof. Such price shall be conclusively deemed established by the purchase price, other than an exchange of product, paid to Lessee by any public utility if such price is the full consideration received by Lessee, or any other person or entity whether or not affiliated with Lessee, for such steam or steam power and if such price is the result of an arms length agreement between Lessee and such public utility. In the event that Lessee sells or otherwise provides steam or steam power to a person or entity who is not a public utility and under the conditions set forth above, or in the event Lessee utilizes such power for its own purposes not related to the exploration for or production of steam or steam power from the Property, then the royalty due under this Lease shall be calculated as follows:

The highest price paid for steam or steam power from the field in which the Property is located during the six month period preceding the contract for sale thereof, by the Sierra Pacific Power Company and Nevada Power Company per kilowatt hour of electrical power generated by such steam shall be averaged and the resultant figure shall be deemed the basis of calculating gross proceeds of Lessee, irrespective of actual proceeds received by Lessee; provided that in the event such actual proceeds are greater, actual gross proceeds of Lessee shall be the basis of calculating royalties due hereunder.

If there were not such purchases of steam or steam power, the parties shall attempt to agree upon the price upon which said royalty is to be calculated. If the parties are unable to agree, then the price upon which royalty is to be based shall be determined by arbitration in accordance with the rules of the American Arbitration Society.

(d) Notwithstanding the foregoing, if there are no purchases of steam or steam power by Sierra Pacific Power Company and Nevada Power Company as provided above, and if Lessee proposes to sell steam or steam power to a person or entity ("Proposed Purchaser") other than a public utility as provided above, then Lessee shall notify Lessor in writing of the proposed sale price and Lessor shall have 120 days following receipt of such notice within which to secure a written offer of a higher price on substantially similar terms

and conditions, which offer may be based on steam availability. Lessor shall send such offer to Lessee, and Lessee shall thereafter have 30 days to accept such offer or to secure a firm written offer from Proposed Purchaser which meets or exceeds said offer.

8. Surplus/Lost Steam - Water.

(a) Lessee shall not be required to account to Lessor for or to pay any royalty on steam or steam power produced by Lessee on the Property which is not utilized, saved or sold, or which is used by Lessee in its operations on or with respect to the Property for or in connection with the development and production of steam, or which is unavoidably lost, provided that if such steam or steam power is sold by Lessee, Lessor shall be entitled to Lessor's royalty thereon.

(b) Lessee shall have the right to use and utilize such water or water rights in, on, produced from or appurtenant to or crossing the Property as Lessee may reasonably require in connection with its operations on the Property in furtherance of the objectives of this Lease and of Lessee's business and operations, without payment therefor to Lessor, provided that such use by Lessee shall be lawful, Lessee has secured all permits, authorizations, or other entitlements to use required by applicable law, rules and regulations of governmental authorities, and, provided further, that such use by Lessee of any water or water rights, as aforesaid, existing as of the date hereof shall not interfere with Lessor's

requirements for Lessor's own use thereof for domestic or agricultural purposes on the Property nor interfere with Lessor's contractual commitments existing as of the date hereof for the use thereof on lands other than the Property. Lessor shall have the right to use any surplus water resulting from Lessee's operations on the Property which is not required by Lessee in its activities or operations; provided that Lessor, at Lessor's expense, shall make adequate provision for the taking and transporting of such water from such place or places on the Property as Lessee shall designate and for the storage, if required, of such water. Lessee shall be responsible for treating all such water, whether or not taken by Lessor, in the same manner required if Lessor did not utilize such water. Except as aforesaid, any surplus water resulting from Lessee's activities or operations may be utilized, disposed of or dealt with by Lessee in such manner as Lessee shall deem appropriate. In the event Lessee desires to plug and abandon any production well or wells theretofore drilled and completed, Lessee shall notify Lessor at least 15 days in advance thereof (unless the plugging and abandoning is due to an emergency requiring immediate action), and Lessor shall have the option within said notice period of taking over said well (but not surface installations or equipment thereof), agreeing to pay to Lessee and paying in due course the reasonable value of salvageable casing, less the estimated fair cost of removing same, and agreeing and in due course causing Lessee to be released from all drilling and abandonment bonds relating

to said well. Any well taken over as aforesaid shall be used by Lessor solely for the use of Lessor or Lessor's tenant.

9. Assignment.

Lessee shall not convey, transfer or assign, in whole or in part, its rights and interests in and under this Lease and Agreement or in the Property, or the steam, steam power or electric power, produced on or from the Property, except to a transferee having a net worth of not less than \$5,000,000 or to a parent or subsidiary company or to a company into which Lessee shall be consolidated or merged without the prior written consent of Lessor, which consent shall not be unreasonably withheld. In the event Lessor shall sell or transfer any part or parts of the Property or any interest in the aforesaid steam, steam power or electrical power, Lessee's obligations hereunder shall not thereby be altered, increased or enlarged, but Lessee may continue to operate the Property and to pay and settle rents and royalties as an entirety. No change in ownership of Lessor's interest (in whole or in part) shall be binding upon Lessee until the expiration of 10 days after Lessee is furnished a certified or adequate evidentiary copy of the instrument or instruments effecting such change.

10. Force Majeure.

(a) Except as set forth in this paragraph, the obligations of Lessee hereunder shall be suspended 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, temporary 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 temporarily precluding compliance, inability to secure, or absence of, a market for commercial sale of steam or steam power developed on or from the Property 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. However, notwithstanding the foregoing provisions, the obligations of Lessee to pay the rental specified in paragraph 7(a) hereof shall not be suspended or otherwise affected by the occurrence of any of the above enumerated conditions, acts or matters.

(b) Provided that Lessee shall not be in default under this Lease, it is further agreed that if at any time after expiration of seven years from the date hereof the production of steam or of electric power theretofore derived or produced from the Property, ceases for any cause other than one or more of the causes enumerated in Paragraph 10(a), this Lease shall nevertheless remain in full force and effect for an additional period of one year and

thereafter if, and so long as, Lessee commences and continues diligently and in good faith the steps, operations or procedures to cause a resumption of such production, until such production shall be resumed.

11. Taxes.

Lessee shall pay all taxes levied on Lessee's structures and improvements placed on the Property by Lessee and shall pay any and all taxes which may be levied or assessed against any personal property owned by Lessee or which may be produced by Lessee in connection with Lessee's operations on the Property. In the event any taxes are levied or assessed against the right to produce steam from the Property or in the event any increase in the taxes levied or assessed against the Property shall be based upon the production from the Property of steam, then in either such event Lessee shall pay five-sixths of all such taxes and Lessor shall pay one-sixth thereof. Lessee shall pay all such taxes levied or assessed against the Property and shall give written demand on Lessor for its one-sixth share of such taxes allocated to Lessor and Lessor shall pay all taxes levied and assessed against the Property without reference to steam production and any and all rights in or to or with respect to the Property not covered by this Lease and Agreement and shall pay all taxes levied and assessed against all structures and improvements owned by Lessor or placed on the Property by or pursuant to permission of Lessor not related to exploration, production and sale of steam.

12. Inspections.

Lessor, or its agents, may at all times examine the Property and the workings, installations and structures thereon and operations of Lessee thereon, and may inspect the books and records 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. Liens.

All the labor to be performed and materials to be furnished in the operations of Lessee hereunder shall be at the sole cost and expense of Lessee, and Lessor shall not be chargeable with, or liable for, any part thereof, and Lessee shall protect the Property against liens of every character arising from its operations thereon. Lessee, at its own expense, prior to commencing operations on the Property, shall obtain and shall maintain adequate Workmen's Compensation insurance, and shall also obtain and maintain comprehensive public liability insurance coverage naming Lessor as an additional insured in amounts of not less than \$500,000 for one person and \$3,000,000 for one accident, and property damage insurance coverage in an amount of not less than \$1,000,000. 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 or those under Lessee's control upon the Property.

14. Maintenance.

In the event any structures, 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 Property, Lessee shall be liable for the payment of the reasonable value thereof. In the event Lessee shall elect to locate a wellsite and an access road thereto on agricultural or grazing land at the time under cultivation or use, 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 below plow depth all pipe lines, except lines for the gathering and transporting of steam, and discharge or other water lines, which it constructs through cultivated fields, 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 Property, or upon the termination of this Lease, Lessee shall level and fill all sump holes, trenches, ditches and other 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 Property 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 or using the Property. In any well drilled by Lessee hereunder sufficient casing shall be set and cemented in such well so as to seal off

known surface waters occurring above a depth of 100 feet from the surface to the extent that Lessee is reasonably able so to do under conditions encountered in such well.

15. Termination.

Except as otherwise provided in this Agreement, in the event Lessee defaults under any of the provisions of this Lease and Agreement and fails to begin in good faith to remedy the same within 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 Property shall be at an end except that in the event of such termination, Lessee shall have the right to remove from the Property, as hereinafter provided, all surface facilities and improvements of whatsoever kind and character placed upon the Property by Lessee. Lessee shall have the right at any time prior or after default hereunder, upon payment of the sum of \$10 to Lessor, to quitclaim and surrender to Lessor all right, title and interest of Lessee in and to the Property, or any part thereof, and thereupon all rights and obligations of the parties hereto one to the other accruing thereafter shall cease and terminate as to the lands or area so quitclaimed and surrendered. A partial quitclaim and surrender shall not reduce any future rentals or royalties, and so long as this Lease is in force as to any portion of the Property, Lessee shall pay the full rentals and royalties herein set forth.

16. Personal Property.

Lessee shall have the right at any time and from time to time to remove from the Property any and all machinery, equipment, structures, installations and property of every kind and character placed upon the Property by or pursuant to permission of 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. Indemnification - Warranty.

Lessee hereby expressly agrees that Lessor does not warrant or agree to defend title to the Property. Lessee, at its option, may pay and discharge any taxes, mortgages, trust deeds or other liens or encumbrances created by Day Cattle Company and existing, levied or assessed on or against the Property, as to which Lessor is in default, 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. However, Lessor makes no warranty, covenant or representation with respect to its title to the Property or rights herein leased or as to any interest, lien, encumbrance, or other charge in or created by any other person or entity and affecting the Property,

and no loss, cost or expense to Lessee with respect thereto or the failure or diminishment of Lessor's title in the Property or rights herein leased, or any portion thereof, shall reduce any royalty, rental or other sum owing or due to Lessor hereunder, except that if Lessor is found by a Court of competent jurisdiction to own less than the entire title to the steam or steam power underlying or that may be produced from the Property, Lessor shall receive only the proportion of rents and royalties allocable to Lessor's ownership, except, also, that Lessor's royalty shall not be less than 5% of 100% under any circumstances.

18. Definitions.

(a) The terms "steam", "steam power", and "thermal energy" shall mean natural geothermal steam, and shall also mean the natural heat of the earth and the energy present in, resulting from, or released from or created by, or which may be extracted from, the natural heat of the earth or the heat present below the surface of the earth, in whatever form such heat or energy occurs and by whatever method, methods, or processes (now or hereafter known) which may be utilized for the extraction or utilization of such heat or energy for electric power generating purposes.

(b) The word "commercial" used in connection with the phrases "commercial value", "commercial quantities", "commercial production", "commercial sale (or sales)" and "commercial use" shall be deemed to mean such quantities of such value produced, sold or used which, after

deducting Lessee's normal operating costs will provide to Lessee a net return over such costs sufficient to cause Lessee to continue production thereof and to elect to proceed with further development on the Property under this Lease and construction of facilities for use of such power pursuant to a definitive schedule.

19. Notices.

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, California 90017, 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: Day Cattle Company, c/o Vaughn, Hull, Marfisi & Goicoechea, 530 Idaho Street, Elko, Nevada 89801. Any notice mailed, as aforesaid, shall be deemed given and received 72 hours after the deposit thereof in the United States mail within the States of Nevada or California, and if deposited in the United States mail outside of such states shall be deemed given and received 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. Unitization.

(a) Lessee shall not combine all or any part

of the Property for drilling, development, or operating purposes, into an operating unit with any lands (whether held by Lessee or others and whether or not the surface of such lands may be used for development or operating purposes), whether or not adjacent or contiguous, situated in the district or natural steam field (in which the Property is situated) which Lessee desires to develop or operate as a unit, without the prior written consent of Lessor, which consent shall not be unreasonably withheld. If Lessor consents, such a unit shall become in existence upon Lessee's filing in the office of the County Recorder of the County in which the Property is situated, a notice of such unitization, describing said unit. Lessee shall also mail a copy of such notice to Lessor at its last known address.

(b) Any well (whether or not Lessee's well) commenced, drilled, drilling and/or producing in any part of such operating unit shall for all purposes of this Lease be deemed a well commenced, drilled, drilling and/or producing on the Property, and Lessee shall have the same rights and obligations with respect to drilling and producing operations upon the lands from time to time included within any such operating unit as Lessee would have if such lands constituted the Property; provided, however, that notwithstanding this or any other provision or provisions of this Lease to the contrary:

(1) production as to which royalty is payable from any such well or wells drilled upon any such

operating unit, whether located upon the Property or other lands, shall be allocated to the Property in the proportion that the acreage of the Property in such operating unit bears to the total acreage of such operating unit, and such allocated portion thereof shall for all purposes of this Lease be considered as having been produced from the Property, and the royalty payable under this Lease with respect to the Property included in such operating unit shall be payable only upon that proportion of such production so allocated thereto.

(c) As to each and any such operating unit, Lessee shall have the right to commingle, for the purpose of utilizing, selling or processing or causing to be processed, the steam or steam power produced from such operating unit with the steam or steam power produced from other lands or units, so long as the production from the unit which includes all or portions of the Property is measured, metered or gauged as to such unit production; unit production so measured, metered or gauged shall then be allocated to the Property in accordance with (b)(1) above.

(d) Allocation, as aforesaid, of production from any such operating unit, whether to the Property or in like manner to other lands therein, shall continue notwithstanding any termination, either in whole or in part (by surrender, forfeiture or otherwise), of this or any other lease covering lands in such operating unit until such time as the owner of such lands shall enter

into a lease or agreement to drill for or produce or shall drill for or produce or permit or cause the drilling for or producing of any natural steam from any part of such lands, whereupon all such lands formerly included in such operating unit and as to which the lease covering the same shall have terminated, shall be excluded in determining the production to be allocated to the respective lands in such operating unit, and in the event of the failure of any other owner's title, other than Lessor, as to any portion of the land included in any such operating unit, such portion of such land shall likewise be excluded in allocating production from such operating unit; provided, however, Lessee shall not be held to account for any production allocated to any lands to be excluded as aforesaid, from any such operating unit unless and until Lessee has actual knowledge of the aforesaid circumstances requiring such exclusion.

21. Severability.

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. Compliance With Laws.

Lessee, at its sole cost and expense, shall comply with all present and future laws, ordinances, orders, rules, regulations and requirements of all federal, state, county and municipal governments, courts, departments, commissions, boards and officers or any other body exercising functions similar to those of any of the foregoing, foreseen or unforeseen, ordinary as well as extraordinary, which may be applicable to the Property or the operations of Lessee thereon.

23. Miscellaneous.

(a) Lessor and Lessee hereby covenant and agree that this Lease and Agreement supersedes and terminates any and all prior understandings or agreements between Lessor and Lessee (but not as to any other lands presently owned by Leland Stanford, Jr. University and held under lease by Lessee), and their respective predecessors in interest, with respect to the Property, in particular that

certain Lease and Agreement dated June 17, 1959, as amended, by and between Gordon MacMillan, et al., and Magma Power Company, recorded in Book H, Page 23 of Miscellaneous Records of Eureka County and Book 11, Page 283 of Miscellaneous Records of Lander County, and all agreements, amendments, supplements and understandings heretofore entered into between Gordon MacMillan, Dorothe MacMillan, his wife, and Lessee or its predecessors in interest, relating to said Lease and Agreement dated June 17, 1959 with respect to the Property or any other lands in Eureka or Lander Counties, Nevada.

(b) 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.

(c) Except for the purpose of granting leasehold interest to Lessee hereby, the term Lessor as used herein shall refer to and mean Day Cattle Company, and Lessee shall be obligated solely to make any payments and give any notice to and secure any consents from Day Cattle Company.

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

first written.

DAY CATTLE COMPANY
a Nevada corporation

By

Robert A. Day, Jr.
President

By

Howard M. Day
Secretary

LESSOR

DAY CATTLE CO.
INCORPORATED
June 24, 1963
NEVADA

MAGMA ENERGY, INC.
a Nevada corporation

By

B. C. McCabe
President

By

Joseph W. Aidlin
Secretary

LESSEE

Willametta K. Day
WILLAMETTA K. DAY
Lessor

* EXHIBIT A

LEGAL DESCRIPTION

Eureka County, Nevada

Township 31 North, Range 49 East:

Section 1,
S 1/2 and NE 1/4 of Section 3,
SW 1/4 NW 1/4 and NW 1/4 SW 1/4
of Section 4,
Section 5

Township 32 North, Range 49 East:

S 1/2 and NE 1/4 of Section 25
N 1/2 and SW 1/4 of Section 27
W 1/2 and NE 1/4 of Section 33
S 1/2 and NE 1/4 of Section 35

Containing 3760 acres, more or less.

EXHIBIT A

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EXHIBIT B

LEGAL DESCRIPTION

NON-LEASED PROPERTY

All that certain real property situate, lying and being in the County of Eureka, State of Nevada, particularly described as follows:

TOWNSHIP 31 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 1: All
Section 3: South half and the Northeast quarter
Section 4: Southwest quarter of the Northwest quarter; Northwest quarter of the Southwest quarter
Section 5: All, except that portion contained within the Town of Beowawe as shown on the Plat filed in the office of the County Recorder of Eureka County, Nevada, as Document No. 2166 on June 15, 1908.
Section 9: All
Section 10: South half of the North half; North half of the South half
Section 11: All
Section 12: North half of the South half; North half

EXCEPTION from Sections 5, 9, 10, 11 and 12 all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.

TOWNSHIP 31 NORTH, RANGE 50 EAST, M.D.B.&M.

- Section 3: All, EXCEPTING THEREFROM all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.
Section 5: All
Section 7: All that portion of Lot 3 (Northwest quarter of The Southwest quarter) lying Northerly of a line parallel with and 200.00 feet distant northerly of the center line of Central Pacific Railway Company's Railroad: Northeast quarter; East half of the Northwest quarter; Lots 1 and 2 (West half of the Northwest quarter) Northeast quarter of the Southwest quarter and North half of the Southeast quarter.

EXCEPTING all those portions lying within the

rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.

Section 8: North half of the Southwest quarter, EXCEPTING all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.

Section 9: That portion of the North half lying Northerly of a line parallel with and 100 feet distant Northerly of the center line of the Western Pacific Company's railroad as now constructed. That portion of the North half and the Southeast quarter Southeasterly of a strip of land 200 feet wide containing 23.18 acres conveyed to Western Pacific Railway Company by deed dated November 27, 1908, and Northwesterly of a line parallel with and 200.00 feet distant Northwesterly of center line of C.P.R.R. Co.'s railroad as now constructed.

Section 10: Northwest quarter of the Northeast quarter EXCEPTING all those portions lying within the rights-of-way of the Southern Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.

Section 11: That portion of the Northeast quarter lying Northeasterly of the Northeasterly boundary of that parcel conveyed to the Western Pacific Railway Company by deed dated November 27, 1908.

EXCEPTING FROM Sections 7 and 9 all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.

TOWNSHIP 31 NORTH, RANGE 52 EAST, M.D.B.&M.

Section 6: Lot 7 (Southwest quarter of the Southwest quarter)

TOWNSHIP 32 NORTH, RANGE 48 EAST, M.D.B.&M.

Section 1: East half lying Easterly of a line parallel with and 200.00 feet distant Easterly of the center line

of the Central Pacific Railway Company's Railroad right-of-way. EXCEPTING THEREFROM all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.

- Section 12: East half of the East half, excepting all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.
- Section 13: Southeast quarter of the Northwest quarter; East half of the Northeast quarter; Southwest quarter of the Northeast quarter; East half of the Southwest quarter; Southeast quarter
- Section 23: East half of the Southeast quarter
- Section 24: East half; Southwest quarter; East half of the Northwest quarter
- Section 25: All
- Section 26: Southeast quarter; East half of the Southwest quarter; South half of the Northeast quarter; Northeast quarter of the Northeast quarter
- Section 27: South half of the Southeast quarter; Northeast quarter of the Southeast quarter
- Section 34: East half of the East half
- Section 35: All
- Section 36: North half; Southwest quarter; West half of the Southeast quarter

TOWNSHIP 32 NORTH, RANGE 49 EAST, M.D.B.&M.

- Section 5: All, excepting therefrom that portion lying Northeasterly of U.S. Highway 40. Further excepting therefrom that parcel conveyed to the State of Nevada by deed recorded September 24, 1963 in Book 27 of Deeds, at page 25, Eureka County, Nevada, records.
- Section 6: Lot 5 (Southwest quarter of the Northwest quarter)

Lots 6 and 7 (West half of the Southwest quarter) Southeast quarter of the Southwest quarter; Southwest quarter of the Southeast quarter

- Section 7:** All, Excepting all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.
- Section 8:** Northwest quarter of the Northwest quarter; South half of the Northwest quarter; Southwest quarter; Southwest quarter of the Northeast quarter; West half of the Southeast quarter; Southeast quarter of the Southeast quarter
- Section 9:** All except that portion lying Northerly of U.S. Highway 40; Further excepting therefrom that parcel conveyed to the State of Nevada by deed recorded September 24, 1963 in Book 27 of Deeds, at page 25, Eureka County, Nevada, records.
- Section 11:** All except that portion lying Northerly of U.S. Highway 40; Further excepting therefrom that parcel conveyed to the State of Nevada by deed recorded August 10, 1964 in Book 5 of Official Records, at page 38, Eureka County, Nevada.
- Section 15:** All
- Section 17:** All
- Section 18:** All excepting all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.
- Section 19:** All excepting all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company.
- Section 20:** All
- Section 21:** All
- Section 23:** North half and the Southwest quarter

- Section 25: Northeast quarter; South half
- Section 27: North half; the Southwest quarter
- Section 28: West half; Northeast quarter;
West half of the Southeast quarter;
Northeast quarter of the Southeast
quarter
- Section 29: All
- Section 30: All excepting all those portions
lying within the rights-of-way of
the Southern Pacific Railroad
Company (or Central Pacific Rail-
way Company) and Western Pacific
Railroad Company.

TOWNSHIP 32 NORTH, RANGE 49 EAST M.D.B.&M.
(Continued)

- Section 31: North half and the East half of the
Southeast quarter excepting all
those portions lying within the
rights-of-way of the Southern
Pacific Railroad Company (or
Central Pacific Railway Company)
and Western Pacific Railroad
Company.
- Section 32: North half; Southwest quarter;
Southwest quarter of the Southeast
quarter and the North half of
the Southeast quarter, excepting
all those portions lying within
the rights-of-way of the Southern
Pacific Railroad Company (or Central
Pacific Railway Company) and Western
Pacific Railroad Company.
- Section 33: West half and the Northeast quarter
- Section 35: South half and the Northeast quarter

TOWNSHIP 32 NORTH, RANGE 50 EAST, M.D.B.&M.

- Section 7: All except that portion lying North
of U.S. Highway 40.
- Section 13: All
- Section 15: All except that portion lying
Northeasterly of U.S. Highway
40.
- Section 17: All except that portion lying
Northeasterly of U.S. Highway 40.
- Section 19: All
- Section 21: All

Section 23: All

Section 25: All

Section 27: All

Section 29: All

Section 31: All

Section 33: All

Section 35: All

EXCEPTING FROM Section 7, 15 and 17 those parcels conveyed to the State of Nevada by Deed recorded August 10, 1964 in Book 5 of Official Records, at page 38, Eureka County, Nevada.

FURTHER EXCEPTING FROM Section 13, that parcel conveyed to State of Nevada by deed recorded September 10, 1965 in Book 5 of Official Records, at page 38, Eureka County, Nevada.

TOWNSHIP 33 NORTH, RANGE 48 EAST, M.D.B.&M.

Section 36: Southeast quarter; West half of the Northeast quarter; East half of the Northwest quarter; Northeast quarter of the Southwest quarter Excepting all those portions lying within the rights-of-way of the Southern Pacific Railroad Company (or Central Pacific Railway Company) and Western Pacific Railroad Company. Further excepting therefrom those parcels conveyed to State of Nevada by deeds recorded September 24, 1963 in Book 27 of Deeds, at page 22 and 25, Eureka County, Nevada, records.

TOWNSHIP 33 NORTH, RANGE 49 EAST, M.D.B.&M.

Section 31: All excepting therefrom that portion lying Northeasterly of U.S. Highway 40. Excepting therefrom those parcels conveyed to State of Nevada by deeds recorded September 14, 1963 in Book 27 of Deeds, at pages 23, 25 and 31.

All those parcels lying within the townsite of Beowawe as shown on the plat filed in the office of the County Recorder of Eureka County, Nevada on June 15, 1908 described as follows:

Block 1: Lots 1 thru 12 inclusive
Block 2: Lots 1 thru 12 inclusive

Block 3: Lots 1 thru 12 inclusive
 Block 4: Lots 1, 2, 3, 10,
 11 and 12
 Block 5: Lots 1 thru 6 inclusive
 Block 6: Lots 1 thru 6 inclusive
 Block 7: Lots 1 thru 6 inclusive
 Block 8: Lots 1, 2, 3, 7 thru
 18 inclusive
 Block 9: Lots 7 thru 12 inclusive
 and Lots 15 thru 18 inclusive
 Block 10: Lots 5, 6 and 18
 Block 11: Lots 1 thru 6, Lots 8, 9,
 10, 16, 17 and 18
 Block 12: Lots 1 thru 15 inclusive
 Block 13: Lots 1 thru 18 inclusive
 Block 14: Lots 1 thru 18 inclusive
 Block 15: Lots 1 thru 18 inclusive
 Block 16: Lots 1 thru 12 inclusive
 Block 17: Lots 6 thru 12 inclusive
 Block 18: Lots 1 thru 6 inclusive
 except the Northwesterly 13 feet
 of Lot 6
 Block 19: Lots 1 thru 18 inclusive
 Block 20: Lots 1, 2, 9, 10, 11, 12,
 13, 14 and 18
 Lots 3, 4, 5, 6, 7, 8, 15, 16, 17
 excepting therefrom that parcel
 conveyed by R. H. Hadley et ux to
 Roman Catholic Bishop of Reno by
 deed recorded April 2, 1958 in
 Book 25 of Deeds at page 214,
 Eureka County, Nevada, records.
 Block 21: Lots 4 thru 18 inclusive
 Block 22: Lots 13, 14, 15, 16,
 17 and 18
 Block 23: Lots 1 thru 18 inclusive
 Block 24: Lots 1 thru 18 inclusive
 Block 25: Lots 1 thru 12 inclusive
 Block 26: Lots 1 thru 12 inclusive
 Block 27: Lots 1 thru 12 inclusive
 Block 28: Lots 1 thru 12 inclusive
 Block 29: Lots 1 thru 12 inclusive

Excepting from Townsite of Beowawe
 a plot of ground upon which the jail
 building of the County of Eureka,
 State of Nevada is situate, together
 with 30 feet in each direction from
 the outer wall thereof and surrounding
 said jail as conveyed to County of
 Eureka by deed recorded June 6, 1904
 in Book 14 of Deeds at page 583,
 Eureka County, Nevada, records.

Further excepting therefrom those
 portions of Lot 1, 2 and 18, Block
 20; Lots 9 thru 18, Block 21; Lots
 13 and 14, Block 22; Lots 1 and 12,
 Block 29; Lots 1 thru 12, Block 28;
 Lots 1 thru 12, Block 27; and Lots
 7 and 8, Block 26 conveyed to Eureka

County School District by deed recorded November 14, 1967 in Book 21 of Official Records, at page 87, Eureka County, Nevada, and described as follows:

Commencing at the Northwest corner of parcel, which point bears North $63^{\circ} 28' 16''$ East a distance of 7098.59 feet from the Southwest corner of Section 6, Township 31 North, Range 49 East, M.D.B.&M.; thence North $49^{\circ} 12'$ East a distance of 609.75 feet to the intersection of the West right-of-way boundary of Nevada State Route 21; thence along the West right-of-way boundary of said highway on a 1,250.00 foot radius, curving to the right, through a central angle of $48^{\circ} 17' 12''$, an arc distance of 1,053.45 feet to end of said curve; thence South $12^{\circ} 53' 41''$ West along said right-of-way boundary a distance of 130.82 feet; thence North $40^{\circ} 48'$ West a distance of 966.99 feet to the point of beginning.

RECORDED AT THE REQUEST OF Joseph W. Aidlin
on September 2, 1975, at 32 mins. past 11 A.M. in
Book 52 of OFFICIAL RECORDS, page 160-196 RECORDS OF
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI, Recorder
File No. 60267 Fee \$ 39.00

8.

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