

68557

AGREEMENT FOR ELECTRIC SERVICE TO IRRIGATION PUMP

AGREEMENT made 5-15, 1979, between MT. WHEELER POWER, INC. a Nevada corporation, hereinafter called the "Seller" and R.O. BUHAMAM,  an individual(s),  a partnership,  a corporation,  a public agency,  an association, (hereinafter called the "Consumer"), whose address is Box 33  
EUREKA NEVADA 89216

WHEREAS, Seller will have electric power and energy available for sale at Consumer's premises as soon as certain electric lines and facilities are constructed; NOW, THEREFORE, this Agreement,

**WITNESSETH**

The Seller agrees to sell and deliver to the Consumer, and the Consumer agrees to purchase and pay for electric power and energy sufficient to operate a 7.5 horsepower irrigation pump motor at the location hereinafter described in the following terms:

1. SERVICE CHARACTERISTICS. a. Service hereunder shall be alternating current, 3 phase, sixty cycles, 480 volts.

b. The Consumer agrees that the production, or use of any electric energy interconnected with the Seller's facilities on these premises, regardless of the source thereof, shall be subject to the inspection, approval, and regulation of the Seller.

During the Non-irrigation Season this service may be used only as stipulated in Rate Code I, and the Seller's Irrigation Policy as it may be from time to time re-amended.

2. PAYMENT. a. Consumer shall pay the Seller for services hereunder at rates and upon the terms and conditions set forth in Seller's Rate Code I, Irrigation Service as the same may from time to time be amended or modified. Notwithstanding any provisions of the Rate Code, however, and irrespective of the Consumer's requirements of use, the Consumer shall pay to the Seller not less than \$ 1,800, the Line Extension Minimum, or the seasonal kilowatt demand charge, or the equivalent installed horsepower charge when applicable, whichever is the greater, per Irrigation Season, for having service available hereunder, during the term hereof. However, in no case will the Seasonal Minimum Charge be less than as provided in Rate Code I.

b. The initial monthly billing period shall start when service becomes available to Consumer during an irrigation season, or at the time of commencement of the irrigation season next following the date Seller first makes service available to Consumer hereunder, whichever shall occur first; provided, however, that if service becomes available 30 days or more after the commencement of the irrigation season, the foregoing yearly minimum charge for the initial season shall be prorated on the basis of the ratio that the time the service is available or furnished hereunder during the initial irrigation season bears to the total time in a full irrigation season.

c. Bills for service hereunder shall be paid at the offices of the Seller in Ely, or Eureka, State of Nevada, monthly within fifteen (15) days after the bill is mailed to the Consumer. If the Consumer shall fail to pay any such bill within such fifteen (15) day period, Seller may discontinue service hereunder by giving five (5) days notice in writing to Consumer. It is expressly understood that such discontinuance of service shall not relieve the Consumer of any of his obligations under this Agreement and those documents expressly incorporated herein by reference.

d. The Consumer agrees that, at any time, Seller may adjust the rates for service and/or service rules and regulations applicable to Consumer, as long as such adjustments are done in accordance with Federal, State, and Local laws governing the Seller.

e. For purposes of this Agreement, the irrigation season and the non-irrigation season shall be as defined in the irrigation rate code.

f. The prepayment of the annual minimum seasonal charge shall be due and payable in three equal monthly installments the first three months of the irrigation season whether or not service is actually used. If the annual seasonal minimum has been prorated in the initial season, the full prepayment for the seasonal minimum shall be paid to Seller prior to connection of service. Irrigation services will be energized each season in accordance with the terms of the then current Irrigation Policy.

g. The Seller shall make available electric power and energy hereunder on or about the date of the Consumer's request, when construction is required, service will be made available as soon as possible contingent upon the timely delivery of materials and any other force majeure as defined in paragraph 4.a. hereof.

h. If any default be made in any installment or other payment for the seasonal minimum charge, the minimum payments for having service available or the bills for service pursuant hereto, and such default is not cured within thirty (30) days of the mailing of written notice, certified mail return receipt requested, to the last address of consumer as set forth on the books of the Seller, then, without further notice or demand, the entire unpaid balance payable and to become payable during the full term of this agreement and any accrued interest thereon, shall, at the Seller's option become immediately due and payable.

i. In order to secure the payment of all sums due or to become due the Seller pursuant hereto, the Consumer does hereby grant to Seller a lien of the force and effect of a real mortgage upon the real property described in Attachment A, which lien shall be contingent upon, and shall attach to the lands, upon the Consumer being in default hereunder, the Seller electing to accelerate the payments due and to become due and exercise its lien rights. In the event Seller elects to accelerate pursuant to paragraph 2.h. and the Consumer does not cure said default, the Seller may further elect to establish its lien hereunder, in which case Seller shall file with the applicable county recorder a notice of Seller's election. Pursuant hereto, Consumer does hereby, grant, bargain, sell and convey unto the Seller all the real properties described in Attachment A, together with all the improvements situate thereon, water, rights, rights-of-way, easements, tenements, hereditaments and appurtenances thereunto belonging or in anywise now or hereafter appertaining, and all rents, issues and profits thereof, as well as all fixtures now or hereafter attached to or used in connection with the premises, which conveyance is for the purpose of establishing Seller's lien rights, and is conditioned upon consumer's default and Seller's election to accelerate and establish its lien hereunder. Should there be no default by Consumer under the terms hereof, during the term hereof, this conveyance shall be of no force or effect. Said lien may be foreclosed by legal proceedings under the laws of the State of Nevada or Utah, as the case may be, relating to the foreclosure of real mortgages, as the same may be from time to time amended. At anytime during the term hereof that consumer is not in default, upon the request of the consumer the Seller will acknowledge in writing the fact that no default exists and that no lien has been established.

3. MEMBERSHIP. The Consumer hereby applies to MT. WHEELER POWER, INC. a Nevada, non-stock, non-profit, corporation (cooperative) for electric service to be supplied at the location herein described and for membership in the cooperative, and agrees to be bound by the Cooperative's Articles of Incorporation, By-Laws, and Rules and Regulations, as the same are now and hereafter adopted or amended.

4. FORCE MAJEURE. a. Seller shall use all reasonable diligence to provide a constant and uninterrupted supply of electric power and energy, however, in the event that Seller shall be rendered unable, wholly or in part, by force majeure to carry out its obligation under this Agreement, it is agreed the obligations of the Seller, so far as they are affected by such force majeure, shall be suspended during the continuance of any inability so caused. The term "force majeure" as employed herein shall mean acts of God, strikes or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of government and peoples, civil disturbances, explosions, breakdown of machinery or equipment, failure, decrease and interruption of power supply, and any other causes, whether of the kind herein enumerated, or otherwise, not within the control of the Seller and which by the exercise of due diligence Seller is unable to prevent or overcome; such term likewise includes (a) in those instances where Seller is required to obtain servitudes, rights-of-way grants, permits or licenses to enable Seller to fulfill its obligations hereunder, the inability of Seller to acquire, or the delays of Seller in acquiring, after the exercise of reasonable diligence, such servitudes, rights-of-way grants, permits or licenses, and (b) in those instances where Seller is required to furnish materials and supplies for the purpose of constructing or maintaining facilities or is required to secure permits or permission from any governmental agency to enable Seller to fulfill its obligation hereunder, the inability of Seller in acquiring, after the exercise of reasonable diligence, such materials and supplies, permits and permissions.

b. It is understood and agreed that the settlement of strikes shall be entirely within the discretion of the Seller, and that any requirement that any force majeure shall be remedied with reasonable diligence shall not require the settlement of strikes by acceding to the demands of the opposing party or parties when such course is inadvisable in the discretion of the Seller.

5. SUCCESSION. This agreement shall be binding upon and inure to the benefit of the parties, hereto, their heirs, administrators, executors, successors and assigns; and to the successors in interest of the irrigated lands herein described.

6. RIGHT OF ACCESS. Consumer and owner shall grant an adequate, recordable right-of-way for the Seller's lines and facilities, and duly authorized representatives of Seller shall be permitted to enter Consumer's premises at all reasonable times in order to carry out the provisions hereof.

7. LEGAL OWNER. The legal owner of the property is R. O. BURNHAM  
 an individual,  a partnership,  a corporation,  a public agency,  an association, whose address is Box 33 EUREKA NEV. 89314

8. TERM. This agreement shall become effective on the date service first becomes available and shall remain in effect for a period of 5 years. The Consumer shall be notified of the date that begins the term of the agreement during the initial irrigation season. Service after the term of this agreement may continue on a year to year basis under the provisions of Rate Code 1, Irrigation Service, and under the terms of the MT. WHEELER POWER, INC., Irrigation Policy, as it may from time to time be amended or revised.

9. CONTRIBUTION IN AID OF CONSTRUCTION. Prior to start of construction Consumer will pay to the Seller a non-refundable contribution in aid of construction in the amount of \$ \_\_\_\_\_.

10. LAND DESCRIPTION AND LOCATION OF PUMP. The pump will serve 160 irrigated acres located in Section(s) 29, Township 33N, Range 54E and the well and pump will be located SW feet from the SE corner of the SW 1/4 of the SW 1/4 of Section 29.

IN WITNESS WHERE OF, the parties have executed this agreement as of the date first above written.

SELLER: \_\_\_\_\_ CONSUMER: \_\_\_\_\_ OWNER: (If Other Than Consumer) \_\_\_\_\_

MT. WHEELER POWER, INC.

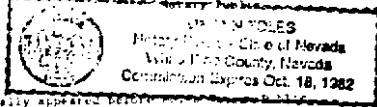
BY: J. E. Baker  
President  
 TITLE \_\_\_\_\_

R. O. BURNHAM

BY: R. O. Burnham  
 TITLE \_\_\_\_\_

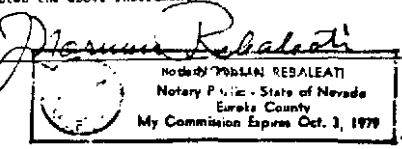
STATE OF NEVADA |  
 COUNTY OF WHITE PINE |

On June 12, 19 79, personally appeared before me a Notary Public, J. Dean Baker, the duly qualified and acting President of MT. WHEELER POWER, INC., a Nevada Corporation, who acknowledged that he executed the above instrument.



STATE OF NEVADA |  
 COUNTY OF EUREKA |

On 5-15, 19 79, personally appeared before me a Notary Public, R. O. BURNHAM, who acknowledged that he executed the above instrument.



STATE OF NEVADA |  
 COUNTY OF WHITE PINE |

On \_\_\_\_\_, 19 \_\_\_\_\_, personally appeared before me, a Notary Public, \_\_\_\_\_, who acknowledged that he executed the above instrument.

ATTACHMENT "A"

Agreement for Electric Service to Irrigation Pump dated  
5-15 1979, between Mt. Wheeler  
Power, Inc. (Seller), and R. O. BURNHAM  
(Consumer).

Pursuant to Paragraph 2.i. of said Agreement to which  
this Attachment "A" is made, Consumer hereby grants a contingent  
lien to Seller on the following described property.

The SW 1/4 of Section(s) 29,  
Township 23 N, Range 54 E,  
Bench and Meridian, of EUREKA  
County, State of NEVADA.

68557

RECORDED AT THE REQUEST OF J. Norman Rebaleati  
on June 20, 19 79, at 36 mins. past 1 P.M. in  
Book 71 of OFFICIAL RECORDS, page 1-3, RECORDS OF  
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI Recorder  
File No. 68557 Fee \$ 5.00

Revised 4/79

BOOK 71 PAGE 3

68565

A F F I D A V I T

1  
2  
3 STATE OF NEVADA )  
4 County of Eureka ) ss.

5 EVELYN NAILLON being first duly sworn deposes and says:  
6 That she is the owner of lots 6,7, and 8 in Block 2, and impr-  
7 ovements thereon, situated in the town of Eureka, Nevada. That  
8 EDWIN M. THAYER and BESSIE THAYER were former owners of the  
9 demised property, holding the same in Joint Tenancy recorded in  
10 Book 26 of Deeds, page 25, under date of March 24, 1961, That  
11 the said EDWIN M. THAYER died on the 23 day of October, 1967,  
12 leaving surviving him his widow, BESSIE THAYER. That through  
13 error and oversight no termination of the Joint Tenancy was ever  
14 recorded in Eureka County, Nevada.

15 That the said BESSIE THAYER PORTER later sold and conveyed  
16 said property as aforesaid to ROBERT and CATHERINE CLYBURN under  
17 date of January 2, 1976, recorded in Book 55, page 33 of Deeds,  
18 Eureka County, Nevada.

19 That the said ROBERT and CATHERINE CLYBURN later sold the  
20 demised property to RONALD NAILLON and EVELYN NAILLON under date  
21 of October 2, 1978, recorded in Book 66, page 208 of Deeds.

22 That subsequently RONALD NAILLON conveyed his community in-  
23 terest to EVELYN NAILLON under date of November 2, 1978, recorded  
24 in Book 66, page 563 of Deeds, Eureka County Nevada.

25 That the said EDWIN M. THAYER died at Eureka, Nevada on  
26 the 23 day of October, 1967 as evidenced by the attached  
27 Death Certificate.


28 That the said Joint Tenancy Estate is hereby declared termi-  
29 nated and the said lots 6,7 and 8 in Block 2, of the town of  
30 Eureka, Nevada, was legally pursuant to Section 40.470, Nevada  
31 Revised Statutes, the sole property of BESSIE THAYER, of  
32 Eureka, Nevada, later known as BESSIE THAYER PORTER.

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*Evelyn Mailton*  
EVELYN MAILTON

SUBSCRIBED and SWORN to before me  
this 26<sup>th</sup> day of June, 1979.

*Michelle F. Carlsen*  
Notary Public.

 MICHELLE F. CARLSEN  
Notary Public State of Nevada  
Eureka County  
My Commission Expires Dec. 27 1982

STATE OF NEVADA  
DEPARTMENT OF HUMAN RESOURCES  
DIVISION OF HEALTH  
CAPITOL COMPLEX  
SECTION OF VITAL STATISTICS  
CARSON CITY, NEVADA 89101

STATE OF NEVADA - DEPARTMENT OF HEALTH AND WELFARE  
DIVISION OF HEALTH - SECTION OF VITAL STATISTICS  
REGISTRAR'S NO. **67-002736**  
**CERTIFICATE OF DEATH**

**1. PLACE OF DEATH, STATE OF NEVADA**  
A. COUNTY: **Eureka**  
B. CITY, TOWN, OR LOCATION: **Rural of Eureka**  
C. STREETS: **Diamond Mine**  
D. IS PLACE OF DEATH INSIDE CITY LIMITS? **NO**  
E. USUAL RESIDENCE: **Eureka, Nevada**  
F. CITY, TOWN, OR LOCATION: **Eureka**  
G. STREETS: **P. O. Box 136, No address**  
H. IS RESIDENCE INSIDE CITY LIMITS? **NO**  
I. IS RESIDENCE ON A FARM? **NO**

**2. NAME OF DECEASED**  
A. NAME: **Edwin**  
B. SEX: **Male**  
C. RACE: **White**  
D. COLOR OF HAIR: **Blue**  
E. HUSBAND OR WIFE: **Never Married**  
F. DATE OF BIRTH: **May 27, 1925**  
G. AGE AT DEATH: **42**  
H. DEATH DATE: **Oct. 23, 1967**

**3. USUAL OCCUPATION**  
A. OCCUPATION: **Miner**  
B. KIND OF BUSINESS OR INDUSTRY: **Mineral**  
C. BIRTHPLACE: **Gly, Nevada**  
D. STATE: **Nevada**  
E. COUNTRY: **U. S.**

**4. FATHER'S NAME**  
A. NAME: **Franklin Thayer**  
B. MOTHER'S MAIDEN NAME: **Belore**

**5. SOCIAL SECURITY NO.**  
A. NO.: **530 12 3136**  
B. INFORMANT: **Mrs Bessie Thayer, Eureka, Nevada**

**6. CAUSE OF DEATH**  
A. PART I - DEATH WAS CAUSED BY: **Mining**  
B. IMMEDIATE CAUSE (A): **Mining**  
C. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH: **None**  
D. ACCIDENT: **Yes**  
E. TOXIC: **No**  
F. TIME OF INJURY: **10:30 AM**  
G. PLACE OF INJURY: **At work**  
H. CITY, TOWN, OR LOCATION: **Eureka**  
I. COUNTY: **Eureka**  
J. STATE: **Nevada**

**7. SIGNATURE**  
A. SIGNATURE: **[Signature]**  
B. DATE: **10/26/67**  
C. LOCATION: **Masonic Cemetery, Eureka, Nevada**  
D. FUNERAL DIRECTOR: **burns Funeral Home Inc, 105 5th St, Eureka, Nevada**

HEREBY CERTIFY THIS TO BE A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD ON FILE WITH THE SECTION OF VITAL STATISTICS, NEVADA DIVISION OF HEALTH



NOT VALID WITHOUT THE RAISED SEAL OF THE NEVADA DIVISION OF HEALTH

APPROVED AT THE REQUEST OF **W. J. Boyd**  
June 26, 1967  
EUREKA COUNTY, NEVADA  
BOOK **71** PAGE **109**