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98-35192

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Lawyers Title Ins. Corp.
600 N. Pearl, Ste. 700
Dallas, TX 75201
Attn: Pat Noska

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STATE OF OREGON)
COUNTY OF DESCHUTES) SS.

I, MARY SUE PENHOLLOW, COUNTY CLERK AND
RECORDER OF CONVEYANCES, IN AND FOR SAID
COUNTY, DO HEREBY CERTIFY THAT THE WITHIN
INSTRUMENT WAS RECORDED THIS DAY:

98 AUG 10 PM 4: 15

MARY SUE PENHOLLOW
COUNTY CLERK

BY: T. Lee DEPUTY
NO. 98-35192 FILE 20
DESCHUTES COUNTY OFFICIAL RECORDS

Unit No. 30716

**DECLARATION OF CONDITIONS
AND RESTRICTIONS**

WHEREAS, TOSCO CORPORATION a Nevada corporation, ("Declarant") declares that it is the owner of the real property located in Deschutes County, State of Oregon, as more fully described on the attached "Exhibit A", such Exhibit being incorporated herein and made a part hereof (the "Property").

WHEREAS, Declarant desires to place of record certain conditions and restrictions affecting the use of the Property (the "Restrictions") as more fully set forth below.

NOW THEREFORE, Declarant declares that:

1. **Restrictions.** The Property shall not be used for:

(a) the sale of any food or food products, dairy products, soft drinks, beer, wine or other alcoholic beverages, except as may be sold through vending machines or as may be sold by a sit-down or take-out restaurant operating at the Property;

(b) the sale of cigarettes and other tobacco products; or

(c) the storage or sale of motor vehicle fuels.

2. **Restrictions To Run With The Land.** The Restrictions created hereby are for the benefit of Declarant, its successors and assigns, are placed for the protection of Declarant's business operated on other properties as may be located in the vicinity of the Property, and shall be deemed to run with the Property for a period of thirty (30) years from the date of recordation of this Declaration. Any successive owner taking title to the Property during the term of this Declaration ("New Owner") shall be bound by these Restrictions.

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AmeriTitle
5 OREGON AVENUE, BEND

3. **Recording.** This Agreement shall become effective and binding upon Declarant and all New Owners, at such time as a fully executed and acknowledged copy is filed in the public land records of Deschutes County, State of Oregon.

4. **Amendment and Termination.** These Restrictions cannot be amended except by the recordation of a document signed by Declarant and the New Owner (if any) evidencing the amendment of the Restrictions. These Restrictions shall automatically terminate at the end of the thirty year period set forth in paragraph 3 above without need for additional documentation.

5. **Default.** In the event these Restrictions are violated by a New Owner, Seller, its successors or assigns shall have the right to pursue any remedy available in law or equity against Buyer or its successors or assigns, specifically including the right to enjoin the offending use of the Property, and to receive an award of its fees and costs reasonably incurred in seeking any available remedy.

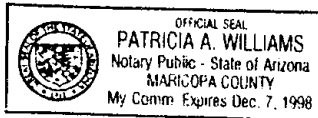
IN WITNESS WHEREOF, the undersigned has executed this Declaration of Conditions and Restrictions this 6 day of July, 1998.

TOSCO CORPORATION

By: David Waldschmidt
David Waldschmidt
Its: Assistant Secretary
Date: July 6, 1998

State of Arizona)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 6th day of July, 1998, by David Waldschmidt, known to me or proved by sufficient evidence to be the Assistant Secretary of Tosco Corporation, a Nevada corporation, , on behalf of the corporation.



Patricia A. Williams
Notary Public
Commission Expires: Dec 7, 1998

Exhibit "A"

A tract of land located in the Easterly portion of Tract Twenty-seven (27), Westerly portion of Tract Twenty-six (26) and the Northwesterly portion of Tract A, all of BLAKLEY HEIGHTS, Deschutes County, Oregon, described as follows: Beginning at the Northeasterly corner of said Tract 27, said point further being on the Southerly right of way line of Powers Road; thence South $89^{\circ} 24' 20''$ East along said right of way line, 271.50 feet to a point on the Westerly right of way of the Dalles California Highway (U.S. 97); thence South $35^{\circ} 53' 00''$ West along said right of way line, 234.92 feet; thence along an arc of a 1462.40 foot radius left, 407.75 feet, the chord of which bears South $27^{\circ} 47' 44''$ West, 406.44 feet; thence leaving said right of way line North $00^{\circ} 35' 40''$ East, 533.24 feet to said Southerly right of way line of Powers Road; thence South $89^{\circ} 24' 20''$ East, 50.00 feet to the point of beginning and terminus of this description.

ALSO a portion of said Tract 27, described as follows: Beginning at a point on the North boundary of said Tract 27, the aforesaid point being located South $89^{\circ} 24' 20''$ East, a distance of 182.42 feet from the Northwest corner of Tract 27; thence South $00^{\circ} 35' 40''$ West, 510.0 feet; thence South $89^{\circ} 24' 20''$ East, 85.0 feet; thence North $00^{\circ} 35' 40''$ East, 510.0 feet; thence North $89^{\circ} 24' 20''$ West, 85.0 feet to the point of beginning.

AND ALSO the East 150 feet of said Tract 27, EXCEPT the East 50 feet thereof. ALSO EXCEPT the right of way of the present Dalles California Highway as now in use.

EXCEPTING THEREFROM a parcel of land being a portion of said Tract 27 and Tract A, described as follows: Commencing at the Northeast corner of said Tract 27; thence South $00^{\circ} 35' 40''$ West, 400 feet on the Easterly line of said tract boundary to the TRUE POINT OF BEGINNING; thence South $89^{\circ} 24' 20''$ East, 6.41 feet to a point on a circular curve of the Westerly Dalles California right of way line; thence on said right of way line, 16.79 feet along the arc of a 1682.02 foot radius curve concave to the East (the chord of which bears South $25^{\circ} 52' 45''$ West, 16.79 feet) to the point of change from circular to spiral curve; thence along the arc of a spiral curve offset 45° Westerly from the Dalles California Highway centerline (centerline spiral curve defined as follows: $L=500$, $S=8^{\circ} 45''$, $A=0.7$) said curve being concave to the East (the chord of this portion of the 45° offset spiral curve bears South $22^{\circ} 13' 20''$ West, 231.09 feet) to a point on offset spiral; thence leaving said right of way North $89^{\circ} 24' 20''$ West, 64.07 feet; thence North $00^{\circ} 35' 40''$ East, 120.00 feet; thence North $89^{\circ} 24' 20''$ West, 85.00 feet; thence North $00^{\circ} 35' 40''$ East, 110.00 feet; thence South $89^{\circ} 24' 20''$ East, 235.0 feet to the POINT OF BEGINNING and there terminating.

ALSO EXCEPTING THEREFROM a tract of land located in a portion of said Tract 27, described as follows: Commencing at the Northeasterly corner of said Tract 27, said point further being on the Southerly right of way line of Powers Road; thence South $00^{\circ} 35' 40''$ West, 290.00 feet on the Easterly line of said Tract boundary; thence leaving said Easterly line North $89^{\circ} 24' 20''$ West, 50.00 feet to the TRUE POINT OF BEGINNING; thence South $00^{\circ} 35' 40''$ West, 110.00 feet; thence North $89^{\circ} 24' 20''$ West, 185.00 feet; thence North $00^{\circ} 35' 40''$ East, 110.00 feet; thence South $89^{\circ} 24' 20''$ East, 185.00 feet to the POINT OF BEGINNING and the terminus of this description.

ALSO EXCEPTING THEREFROM that portion described in Warranty Deed to the State of Oregon, by and through its Department of Transportation, Highway Division, recorded December 29, 1978 in Book 290, Page 618, Deed Records.

AND ALSO EXCEPTING THEREFROM that portion described in Warranty Deed to Deschutes County, a political subdivision of the State of Oregon, recorded January 5, 1994 in Book 324, Page 2608, Official Records.