

L 119/P 344

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T 73-096

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That

CONSUMERS POWER COMPANY, a Michigan corporation, 212 West Michigan Avenue, Jackson, Michigan, (successor by merger to Consumers Power Company, a Maine corporation) first party

for and in consideration of the sum of Forty three thousand sixty and no/100 - - - Dollars (\$43,060.00), receipt whereof is hereby acknowledged, does hereby convey and QUITCLAIM to the MICHIGAN DEPARTMENT OF TRANSPORTATION, and to its successors in office and assigns, second party, whose address is Lansing, Michigan, the following described real estate situated in the Townships of Big Creek and Mentor, Oscoda County, State of Michigan:

Parcel A

All that part of the following described Tract "A" which lies E'ly of the proposed W'ly right of way line of Highway M-33/M-72:

TRACT A - The NE 1/4 of the SE 1/4 of Section 12, T26N, R2E, Big Creek Township, EXCEPTING THEREFROM entire Block 6 of the Plat of the Village of Mio, according to the plat thereof as recorded in Liber one of Plats on Page one of Oscoda County Records. Said parcel does include Blocks 1, 2, 3, 4 and 5 of said Plat of the Village of Mio. ALSO EXCEPTING THEREFROM a parcel of land described as beginning at a point 2,043.6 feet North of the Southeast corner of said section; thence running West 360 feet; thence North 100 feet; thence East 360 feet; thence South 100 feet to the point of beginning.

The proposed W'ly right of way line of Highway M-33/M-72 is described as: To find the place of beginning of said W'ly right of way line commence at the Southwest corner of Section 7, T26N, R3E, Mentor Township; thence N 89° 51' 58" E, along the South line of said section 1.79 feet; thence N 00° 11' 54" W, 1600.00 feet to the point of beginning of said W'ly right of way line; thence S 89° 48' 06" W, 100.00 feet; thence N 00° 11' 54" W, 54.10 feet to the point of curvature of a 2391.33 foot radius curve to the right; thence N'ly along the arc of said curve, 450 feet to a point of ending.

Parcel B

All that part of the following described Tract "A" which lies between the proposed W'ly and E'ly right of way lines of Highway M-33/M-72.

TRACT "A" - The NW 1/4 of the NW 1/4 and that part of the SW 1/4 of the NW 1/4, lying North of the Au Sable River, Section 7, T26N, R3E, Mentor Township.

The proposed W'ly right of way line of Highway M-33/M-72 is described as: To find the place of beginning of said W'ly right of way line commence at the Southwest corner of Section 7, T26N, R3E; thence N 89° 51' 58" E along the South line of said section 1.79 feet; thence N 00° 11' 54" W, 2000.00 feet; thence S 89° 48' 06" W, 50.00 feet to the point of beginning of said W'ly right of way line; thence N 00° 11' 54" W, 347.20 feet to the point of curvature of a 653.80 foot radius curve (chord definition) to the right; thence NE'ly along the arc of said curve, 324.44 feet to the point of tangency of said curve; thence N 28° 16' 01" E, 353.19 feet to the point of curvature of a 2242.01 foot radius curve (chord definition) to the left; thence N'ly along the arc of said curve, 743.37 feet (chord bearing, N 18° 46' 09.52" E); thence N 82° 08' 01" W, 22.30 feet; thence N'ly along the arc of a 2166.83 foot radius curve to the left.

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party shall submit to the Michigan Department of Transportation, detailed plans of same for review and approval of the manner in which they relate to the safety of the public on the highway constructed on or to be constructed on said land and to the structural integrity of said highway as well as landscape appearance of the highway roadside.

and also the easement and right to lay, construct and maintain one or more pipelines with the usual services, valves, connections and accessories for the purpose of transmitting and distributing oil, gas and associated condensates on, over, under and across the premises herein conveyed, excepting for that portion of said land above described as Parcel C which lies E 1/4 of a line which said line is 100 feet distant E 1/4 of and measured at right angles to and parallel with said above-described construction line of said Highway M-33/N-72, provided said underground and overhead electric lines, pipelines and communication lines and facilities are so located as not to interfere with the roadway of any highway on said land at the time of the construction of such electric lines, pipelines and communication lines and facilities.

Saving, excepting and reserving to first party, its successors and assigns, Forever, all nonmetallic minerals, coal, oil and gas (but not including sand, clay or gravel) lying and being on, within, or under the land herein conveyed and described above as Parcel A, Parcel B and Parcel C, with full and free liberty and power to the said first party, and to its successors and assigns, lessees, agents and workmen, and all other persons by its or their authority or permission, whether already given or hereafter to be given at any time, and from time to time, to take all usual, necessary or convenient means for exploring, mining, working, piping, getting, laying up, storing, dressing, making merchantable, and taking away the said coal, oil and gas and other nonmetallic minerals and for storing, re-storing and protecting oil, gas and nonmetallic minerals in the subsurface strata underlying said land and taking and retaking the same from wells, mines or shafts sunk upon adjoining lands, or lands in the vicinity thereof. The exercise of these rights shall not interfere with, adversely affect nor impair in any way the use of the land herein conveyed for highway, road or street purposes. No wells, mines or shafts are to be placed upon the land herein conveyed.

Also excepting and reserving to first party, its successors and assigns, the right to flow and damage in any manner the land described above as Parcel A, Parcel B and Parcel C, by the maintenance and operation of the Mio Dam in the Au Sabie River together with the right to fluctuate or otherwise affect the flow of water in said Au Sabie River by the operation of said Mio Dam, and the right to flow and damage said land in any manner as a result of the partial or total destruction of said Mio Dam.

First party further reserves the right to trim, cut, remove, or otherwise control any vegetation or other forest products, now or hereafter growing upon the land herein conveyed, which in the opinion of said first party may interfere or threaten to interfere with the construction and operation of electric lines, pipelines and communication lines of first party.

First party agrees that any construction on the premises herein conveyed, including the disposal of excavated material and backfilling of any excavations, and any tunneling for underground electric and pipeline facilities under the highway constructed on or to be constructed thereon shall be done in accordance with applicable specifications of the Michigan Department of Transportation and that all limbs, logs, stumps and litter resulting from the trimming or removal of trees on said land shall be disposed of in a manner acceptable to the District Forester, Michigan Department of Transportation.

First party further agrees as to its facilities and activities, to keep clear and open to traffic at all times without impairment of any type except as otherwise permitted by the Michigan Department of Transportation, the roadway of the highway constructed on or to be constructed upon the land herein conveyed. Temporary structures or excavations for the construction, repair or maintenance of electric and pipeline facilities may be placed on the land herein conveyed outside of said pavement and shoulders subject to the reasonable control of the Michigan Department of Transportation.

Prior to the commencement of construction, repair or maintenance of any facilities on said land, except for routine maintenance and/or inspection, first

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party shall submit to the Michigan Department of Transportation, detailed plans of same for review and approval of the manner in which they relate to the safety of the public on the highway constructed on or to be constructed on said land and to the structural integrity of said highway as well as landscape appearance of the highway roadside.

II

It is understood and agreed that second party shall not change the grade of the described premises and/or change the course of the established portion of the highway once first party's electrical, pipeline and communication facilities have been established or located thereon without first giving reasonable notice thereof to first party. When requested in writing, first party shall remove its electrical, pipeline and communication facilities constructed pursuant to the easement rights herein reserved, provided that, before first party shall remove such facilities, second party shall secure and provide to first party, at no cost to first party, substitute easement rights and/or fee title right of way satisfactory to first party for said facilities, and provided further that second party shall compensate first party for all cost and expense incurred by first party as a result of the removal of its electrical, pipeline and communication facilities from the land herein described and the reconstruction of same on said substitute easement rights and/or fee title right of way. Such removal and reconstruction shall be performed within a reasonable time as first party's scheduling time permits subject to delays due to strikes, acts of God or as a result of any cause or reason beyond the control of first party.

No vegetation which will interfere with first party's facilities shall be planted or otherwise grown upon the land herein conveyed, within fifty (50) feet of either side of the said electric lines, pipelines and communication lines of first party, as now constructed. No buildings or structures other than highway pavement shall be erected thereon without the consent of first party, its successors or assigns.

III

Except in the case of emergency maintenance and repairs, first party will notify the Michigan Department of Transportation when the work will commence so that second party may have an inspector present while the work is in progress, at second party's own expense.

Anything herein to the contrary notwithstanding, it is understood and agreed that immediate entry may be made to said land as necessary for emergency maintenance and repairs to utility facilities of first party, with notice being given to the Michigan Department of Transportation as promptly as possible.

IV

It is understood and agreed that the land above described as Parcel A and Parcel C and that portion of Parcel B lying South of the North line of the SW 1/4 of the NW 1/4 of Section 7, T26N, R3E (in this Section IV referred to as "Project Lands"), lies within the boundaries of the Mio Project, Federal Energy Regulatory Commission (FERC) Project No. 2448. It is further understood and agreed:

1. That the right to use such Project Lands for all project purposes is hereby reserved to the Project Licensee of the FERC;
2. That the use of such Project Lands shall not endanger health, create a nuisance, or otherwise be incompatible

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WITNESSES:

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with overall recreational use of the land and waters within the boundary of the Mio Project;

3. That the party to undertake any construction contemplated as a result of the conveyance of such Project Lands shall take all necessary precautions during construction and subsequent operation and maintenance to protect and enhance the environmental values of the land and waters within the boundary of the Mio Project;
4. That this deed is made subject to any order, regulation or rule of the FERC, or any successor agency, which is now in effect or may hereafter be made affecting such Project Lands, and second party hereby waives and releases any claim or action at law or equity that it may have against first party as the result of the compliance by first party with such order, rule or regulation.

Together with all and singular the hereditaments and appurtenances thereunto belonging or in anywise appertaining: TO HAVE AND TO HOLD the said premises, as herein described, with the appurtenances unto second party and to its successors and assigns to the sole and only proper use, benefit and behoof of second party, its successors and assigns, Forever.

IN WITNESS WHEREOF, first party has caused this instrument to be executed in its corporate name and by its duly authorized officer _____ as of the 21st day of July, 1980.

WITNESSES:

Carol J. Kielar
Carol J. Kielar
Diane M. Tyrrel
Diane M. Tyrrel

APPROVED AS TO FORM
DLSE
CONSUMERS POWER COMPANY
LEGAL DEPARTMENT
By G. L. Heins
G. L. Heins, Vice President

STATE OF MICHIGAN)
) SS.
COUNTY OF JACKSON)

The foregoing instrument was acknowledged before me this 21st day of July, 1980, by G L Heins, Vice President of CONSUMERS POWER COMPANY, a Michigan corporation, on behalf of the corporation.

Beverly Wilson
Beverly Wilson
Notary Public, Jackson County, Michigan
My Commission expires September 20, 1982

PREPARED BY DAVID R. ROOD
CONSUMERS POWER COMPANY
212 WEST MICHIGAN AVENUE
JACKSON, MICHIGAN