

65-1268

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## MORTGAGE

THIS MORTGAGE, Made this 27th day of September, 1965, by LEO DONOVAN and HALLENE DONOVAN, husband and wife, Mortgagors, to JOY DALE LIHS and FRIEDA V. LIHS, Mortgagees,

WITNESSETH, That said mortgagor, in consideration of the sum of Thirty-one Thousand Five Hundred Ninety-nine and Fifty/100ths (\$31,599.50) Dollars to the mortgagor paid by the mortgagees, the said mortgagors do hereby grant, bargain, sell and convey unto the said mortgagees as joint tenants with the right of survivorship and not as tenants in common, their assigns and the heirs of the survivor of them, those certain premises situate in the County of Klamath and State of Oregon, and described as follows, to-wit:

A tract of land situated in the S $\frac{1}{2}$ SW $\frac{1}{4}$  and in Government Lot 4, Section 17 T. 40 S., R. 10 E.W.M., Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the West line of said Section 17, said point being South a distance of 1574.97 feet from the 5/8 inch iron pin marking the West one-fourth corner of said Section 17, said point being in the centerline of the County road known as the Elliott Road and said point being the Northwest corner of that strip of land as described in Deed Volume 350, page 632, Klamath County Deed Records; thence South along the West line of said Section 17 and along the centerline of the Elliott Road a distance of 1066.63 feet to a 5/8 inch iron pin marking the Southwest corner of said Section 17, said point also being in the centerline of the County Road known as Zuckerman Road; thence South 89°58'45" East along the South line of said Section 17 and along the centerline of the Zuckerman Road a distance of 2770.00 feet; thence North parallel with the west line of said Section 17 a distance of 30.00 feet to a 5/8 inch iron pin on the north line of the Zuckerman Road; thence continuing North a distance of 849.85 feet to a 5/8 inch iron pin; thence North 86°56' East a distance of 212.71 feet to a 5/8 inch iron pin; thence continuing North 86°56' East to the Westerly bank of Lost River; thence Northwesterly along the westerly bank of Lost River to a point that bears North 86°56' East from the point of beginning, said point being the northeasterly corner of that strip of land as described in Deed Volume 350, page 632, Klamath County Deed Records; thence following the Northerly line of said strip of land; South 86°56' West to a 5/8 inch iron pin that is North 86°56' East a distance of 2824.95 feet from the point of beginning; thence continuing South 86°56' West a distance of 2794.91 feet to a 5/8 inch iron pin on the East line of the Elliott Road; thence continuing South 86°56' West a distance of 30.04 feet to the point of beginning.

EXCEPTING road right of way along the West and South boundaries thereof.

SUBJECT TO 1965-66 taxes; acreage and use limitations under provisions of the United States statutes and regulations issued thereunder; liens and assessments of Klamath Project and Klamath Irrigation District and regulations, contracts, easements, water and irrigation rights in connection therewith; rights of the public in and to Elliott Road on the west and Zuckerman Road on the south; waiver of riparian rights, including the terms and provisions thereof to the United States of America, by instrument recorded September 16, 1905,



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in Deed Volume 82 at page 342; rights of the public and of governmental bodies in and to that portion of the herein described property lying below the ordinary high water mark of Lost River; right of way for pole line for transmission of electricity, including the terms and provisions thereof as granted to Pacific Power and Light Company by easement recorded October 5, 1964, in Deed Volume 356 at page 485; and easements and rights of way of record and apparent thereon.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining; together with the rents, issues and profits therefrom and all fixtures now or hereafter placed or installed in or upon said described premises,

TO HAVE AND TO HOLD the same unto the said mortgagees as joint tenants with the right of survivorship and not as tenants in common, and to their assigns and the heirs of the survivor forever.

This mortgage is intended to secure the payment of a certain promissory note of even date in the face amount of \$31,599.50 attached hereto as Exhibit "A" and thereby made a part hereof as if fully set forth herein.

In construing this mortgage and the said note, the word "survivor" shall include survivors, the term "mortgagor" shall include mortgagors; the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to more than one individual; furthermore, the word "mortgagees" shall be construed to mean the mortgagees named above, if all or both of them be living, and if not, then the survivor or survivors of them, because it is the intention of the parties hereto that the said note and this mortgage shall be held by the said mortgagees as joint tenants with the right of survivorship and not as tenants in common and that on the death of one, the moneys then unpaid on said note as well as all rights and interests herein given to the mortgagees shall vest forthwith in the survivor of them.

And said mortgagor covenants to and with the mortgagees, and their successors in interest, that he is lawfully seized in fee simple of said premises and has a valid, unencumbered title thereto except the subject to portion set forth above and will warrant and forever defend the same against all persons; that he will pay said note, principal and interest, according to the terms thereof; that while any part of said note remains unpaid he will pay all taxes, assessments and other charges of every nature which may be levied or assessed against said property, or this mortgage or the note above described, when due and payable and before the same may become delinquent; that he will promptly pay and satisfy any and all liens or encumbrances that are or may become liens on the premises, or any part thereof, superior to the lien of this mortgage; and will not commit or suffer any waste of said premises.

Now, therefore, if said mortgagor shall keep and perform the covenants herein contained and shall pay said note according to its terms, this conveyance shall be void, but otherwise shall remain in full force as a mortgage to secure the performance of all said covenants and the payment of said note; it being agreed that if the mortgagor shall fail to make any payment or to perform any covenant herein, or if a proceeding of any kind be taken to foreclose any lien on said premises, or any part thereof, the mortgagees shall have the option to declare the whole amount unpaid on said note or on this mortgage at once due and payable, and this mortgage may be foreclosed at any time thereafter. And if the mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, the mortgagees may at their option

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do so, and any payment so made shall be added to and become a part of the debt secured by this mortgage and shall bear interest at the same rate as said note, without waiver, however, of any right arising to the mortgagees for breach of covenant; and this mortgage may be foreclosed at any time while the mortgagor neglects to repay any sums so paid by the mortgagees.

In the event of any suit or action being instituted to foreclose this mortgage, the mortgagor agrees to pay all costs and disbursements allowed by law and such sum as the court may adjudge reasonable as plaintiff's attorney's fees in such suit or action, together with the reasonable costs incurred by the mortgagee for title reports and title search, all such sums to be secured by the lien of this mortgage and included in the decree of foreclosure.

In case suit or action is commenced to foreclose this mortgage, the court upon motion of the mortgagees, may appoint a receiver to collect the rents and profits arising out of said premises during the pendency of such foreclosure and apply the same to the payment of the amount due under the mortgage, first deducting all proper charges and expenses attending the execution of said trust.

Each and all of the covenants and agreements herein contained shall apply to, inure to the benefit of and bind the heirs, executors, administrators, successors in interest and assigns of said mortgagor and of said mortgagees respectively.

It is agreed that mortgagor may subdivide the above-described lands, and sell the same out in small tracts, and that mortgagees will release a portion or portions of the above-described premises on an acreage basis upon written request therefor by mortgagors describing the area and acreage sought to be released deposited in the United States mail, postage prepaid, as certified mail, addressed to Route 1, Box 628, Klamath Falls, Oregon, with a copy thereof to payees in care of First Federal Savings and Loan Association or its successor, Klamath Falls, Oregon. As consideration for such release or releases, mortgagor shall pay toward the principal sum due hereunder a sum equal to \$550.00 per acre or fraction thereof for fractional acreages so released, together with interest on the sum so paid for any such release accruing from the date of last payment to date of the payment for the release. Payments paid under this provision shall be credited first to the interest due as herein provided and then to the principal balance of the mortgage.

IN WITNESS WHEREOF, said mortgagor has hereunto set his hand and seal the day and year first above written.

Executed in the presence of

*Pauline Macom*

*Ed. Carson* (SEAL)

*Wallace Spencer* (SEAL)

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INSTALLMENT NOTE

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\$31,599.50

September 27, 1965

FOR VALUE RECEIVED, I promise to pay to the order of Joy Dale Lihs and Frieda V. Lihs, husband and wife, and upon the death of any of them, then to the survivor of them, at Klamath Falls, Oregon, Thirty-one Thousand Five Hundred Ninety-nine and Fifty/100ths DOLLARS, in lawful money of the United States of America, with interest thereon in like lawful money at the rate of 5.5 per cent per annum from date hereof until paid, payable in annual installments, at the dates and in the amounts as follows: The sum of \$1,580.00, on or before the first day of November, 1966, and eighteen like installments on or before the first day of November of each year thereafter with a final installment of \$1,579.50. Interest to be paid with principal and in addition to the minimum payments above required; said payments shall continue until the whole sum hereof, principal and interest, has been paid; if any of said installments is not so paid, the whole sum of both principal and interest shall become immediately due and collectible at the option of the holder of this note. In case suit or action is instituted to collect this note or any portion thereof, I promise to pay such additional sum as the Court may adjudge reasonable as attorney's fees to be allowed in such suit or action.

It is the intention of the parties hereto that the said payees do not take the title hereto as tenants in common but with the right of survivorship, that is, the unpaid balance of principal and interest on the death of any of them shall vest absolutely in and be payable to the survivor of them.

This note may be prepaid up to fifty per cent of the deferred balance on any due date upon 45 days written notice in advance of said due date. Said notice shall be deposited in the United States mail, as certified mail, postage prepaid, addressed to Route 1, Box 628, Klamath Falls, Oregon, with a copy thereof to payees in care of First Federal Savings and Loan Association or its successor, Klamath Falls, Oregon.

/s/ Leo Donovan

/s/ Hallene Donovan

EXHIBIT "A"

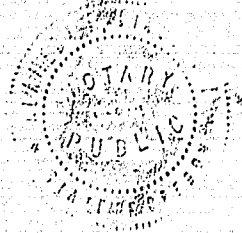


STATE OF OREGON )  
County of Klamath ) ss.

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BE IT REMEMBERED, That on this 27th day of September, 1965, before me, the undersigned, a Notary Public in and for said county and state, personally appeared the within named LEO DONOVAN and HALLENE DONOVAN known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that they executed the same for the purposes therein contained.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.



*Alameda E. Giacomin*  
Notary Public for Oregon  
My commission expires Aug 5, 1966

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Oregon Title Insurance Co.  
this 30 day of Sept. A. D. 1965 at 3:13 clock P.M., and  
daily recorded in Vol. M-65 of Mortgages on Page 2157  
Fee \$7.50 DOROTHY ROGERS, County Clerk  
By *Jane Neal*

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*rel. One Title Insurance*