

LOAN NO.

PIC 2 151 797

ARIZONA-COLORADO-IDAHO-NEW MEXICO
OREGON-UTAH-WASHINGTON

1253 Mortgage

Vol 166 Page 2930

This Mortgage, Made this fifth day of October, A.D. nineteen hundred and sixty-five, by and between WILLIAM F. HILL and SHIRLEY C. HILL, husband and wife

in the State of Oregon, hereinafter called "Mortgagor", and THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, a corporation of the State of New Jersey, having its principal office at 745 Broad Street, Newark, New Jersey, hereinafter called "Mortgagee"

WITNESSETH, that Mortgagor, for and in consideration of the sum of Twenty-Four Thousand and No/100 (\$24,000.00) Dollars, lawful money of the United States of America, to Mortgagee in hand paid by Mortgagee, the receipt of which is hereby acknowledged, and in order to secure the repayment thereof according to the promissory note hereinafter mentioned and also to secure the repayment of any further sum or sums advanced or paid by Mortgagee to or for the account of Mortgagor as herein provided, does hereby grant, bargain, sell, convey and confirm unto Mortgagee, its successors and assigns, forever, all the following described real property lying and being in the County of Klamath, State of Oregon, and described as follows, to wit:

PARCEL I: SW 1/4, NW 1/4, and all that portion of the SW 1/4, lying North of the existing drainage ditch #7, all in Sec. 26, Twp. 40 S., Rge. 10 EWM, SAVE AND EXCEPT a roadway 60 feet wide running North and South along the Section line between Section 26 and 27.

PARCEL II: The SW 1/4 of Sec. 35, Twp. 40 S., Rge. 10 EWM, EXCEPTING, rights of way for ditches as granted to United States of America by instruments recorded April 13, 1921 in Deed Volume 56 at page 165 and recorded November 5, 1931 in Deed Volume 96 at page 261.

Together with the following described equipment:

Turbine Vertiline Pump, Serial No. D01216
Electric Holloshaft 10 H.P. Motor, Serial No. 3288011

Together with all properties of like kind hereafter and during the life of this mortgage acquired by the mortgagors by purchase or by exchange or substitution of said above described equipment.

together with all and singular the tenements, hereditaments, rights, easements, privileges and appurtenances thereunto belonging, or in anywise appertaining, and all improvements now or hereafter thereon together with storm and screen windows and doors, gas, steam, plumbing, electric, toilet and other fixtures now or hereafter a part of, or used in connection with any building thereon and together with trellises, pumps, sprinkler systems, pumping stations, motors, engines, reservoirs, pipes and flumes or other equipment now or hereafter used for the production of water thereon or for the irrigation or drainage thereof, and the reversions, remainders, rents, issues and profits thereof, and also hereby releasing and waiving all rights under and by virtue of any homestead, stay, appraisalment and exemption laws now in force, or which may hereafter become laws, and together with all the rights to the use of water for irrigating said premises and for domestic use thereon to which Mortgagor, or the premises hereby conveyed, is now or may hereafter become entitled, or which now are or may hereafter be used on said premises, however the same may be evidenced, and together with all shares of stock or shares of water in any ditch or irrigation company which in any manner entitles Mortgagor to water for irrigating or domestic purposes upon said premises; all of the foregoing is included in and hereinafter called the "mortgaged property".

TO HAVE AND TO HOLD the said mortgaged property, unto Mortgagee, its successors and assigns, forever. And Mortgagor hereby covenants with Mortgagee that Mortgagor is lawfully seized in fee simple of the mortgaged property, that Mortgagor has good right and lawful authority to encumber or sell and convey the same, that the mortgaged property is free from all encumbrances, that Mortgagee shall quietly enjoy and possess the same, and that Mortgagor will forever warrant and defend the title to the mortgaged property unto Mortgagee against any and all lawful claims of all persons whomsoever.

This mortgage secures the payment of the principal sum hereinabove mentioned as the consideration hereof, with interest thereon, according to the tenor and effect of that certain promissory note (and any renewals or extensions or modifications thereof) of even date herewith, the final payment of said principal sum being due and payable on December 15, 1990; said note, being hereby secured and by reference made a part hereof, is executed and delivered by Mortgagor and is payable to the order of Mortgagee in lawful money of the United States of America at its office in Newark, New Jersey, or at such other place as the holder thereof may designate in writing, and also to secure the repayment of any further sum or sums advanced or paid by Mortgagee to or for the account of Mortgagor as herein provided.

And Mortgagor for the consideration aforesaid hereby covenants and agrees to and with Mortgagee, its successors and assigns, as follows:

1. To pay unto Mortgagee, its successors and assigns, the indebtedness evidenced by said note together with all instalments of principal and/or interest payable by the terms thereof according to the tenor and effect of said note of even date herewith, and to pay all other sums that may hereafter be or become owing by Mortgagor to Mortgagee as provided for herein, together with interest thereon at the applicable rate set forth in said note or herein specified with respect thereto, in lawful money of the United States of America.

2. To keep the mortgaged property in good condition and repair, to keep in good cultivation the land described in this mortgage, not to commit nor permit any waste on the mortgaged property, to comply with all laws, rules and regulations made by Governmental authority and applicable to the mortgaged property, to keep the mortgaged property free from statutory liens of every kind, and not to do nor to permit to be done anything which shall impair the security by this mortgage created.

3. (a) To pay, before they become delinquent, all taxes, assessments and excises of every type or nature that may be levied, assessed or imposed upon the mortgaged property, or any part thereof, and

(b) To pay, before they become delinquent, all taxes, assessments and excises of every type or nature that may be levied, assessed or imposed upon this mortgage or the interest of Mortgagee hereunder or upon any note or indebtedness secured hereby, notwithstanding any law heretofore or hereafter enacted imposing payment of the whole or any part of the aforesaid taxes, assessments and excises upon Mortgagee, provided however, that the total amount so paid for any such taxes, assessments and excises pursuant to this subparagraph (b) together with the interest payable on said indebtedness shall not exceed the highest lawful rate of interest in the State wherein these mortgaged premises are situated and further provided that in the event of the passage of any law or regulation levying, assessing or imposing any such taxes, assessments or excises referred to in this subparagraph (b), which by reason of the operation of this subparagraph (b) would result in requiring Mortgagee to pay any part of such taxes, assessments or excises, the entire indebtedness secured by this mortgage shall thereupon become immediately due and payable at the option of Mortgagee.

4. To keep the premises insured against loss or damage by fire, the perils against which insurance is afforded by the Extended Coverage Endorsement, and such other risks and perils as Mortgagee in its discretion may require. The policy or policies of such insurance shall be in the form in general use from time to time in the locality in which the premises are situated, shall be in such amount as Mortgagee may reasonably require but in no event for less than the indebtedness from time to time secured hereby, shall be issued by a company or companies approved by Mortgagee, and shall contain the Standard Mortgage Clause in form satisfactory to, and with loss payable to, Mortgagee. Whenever required by Mortgagee in writing, mailed to Mortgagor at Mortgagor's last address known to Mortgagee, such policies shall be delivered immediately to and held by Mortgagee. Any and all amounts received by Mortgagee under any of such policies may be applied by Mortgagee on the indebtedness secured hereby in such manner as Mortgagee may, in its sole discretion, elect or at the option of Mortgagee, the entire amount so received or any part thereof may be released. Neither the application nor the release of any such amounts shall cure or waive any default or Notice of Default hereunder or invalidate any act done pursuant to such Notice. Upon foreclosure hereof or other acquisition of the premises or any part thereof by Mortgagee, such policies shall become the absolute property of Mortgagee.

5. In case of failure to pay aforesaid taxes, assessments and excises required by Mortgagor to be paid before the same become delinquent or any interest or penalty accrues thereon, or to effect aforesaid insurance and deliver the policy or policies as aforesaid, or in case there exists or shall arise at any time any claim, lien or encumbrance on the mortgaged property, or any part thereof, which is prior to this mortgage, or in case there shall exist at any time during the continuance of this mortgage any statutory lien on the mortgaged property, or any part thereof, Mortgagee may pay such taxes, assessments and excises or effect such insurance, or pay such claim, lien, encumbrance or statutory lien, and the sum or sums so advanced, including cost of evidence of title, shall immediately be due and payable and shall, with interest thereon at the highest legal contract rate of interest per annum from the time of payment, be deemed to be secured hereby.

6. Mortgagee may appear in or defend any action or proceeding at law or in equity, purporting to affect the security hereof, and in such event Mortgagee shall be allowed and paid, and Mortgagor hereby agrees to pay, all costs, charges and expenses, including costs of evidence of title and attorney's fees in a reasonable sum, incurred in any such action or proceeding in which Mortgagee may appear.

7. No saw timber is to be cut or removed from the within described land without the written consent of Mortgagee and when such consent is given Mortgagor agrees to pay to Mortgagee fifty per cent. (50%) of the net proceeds which shall be applied on the indebtedness herein secured.

8. That all judgments, awards of damages and settlements, hereafter made as a result of or in lieu of any condemnation or other proceedings for public use of, or for any damage to, said premises or the improvements thereon and any award for change in grade of streets are hereby assigned and shall be paid to Mortgagee. Mortgagor agrees to execute such further assignments of any such award, judgment or settlement as Mortgagee may require, and to deliver to Mortgagee all proceeds of any such award, judgment or settlement which may be received by Mortgagor. Mortgagee may apply any and all such sums on the indebtedness secured hereby in such manner as it elects or, at its option, the entire amount so received by it or any part thereof may be released. Neither the application nor the release of any such sums shall cure or waive any default.

9. In case of default in the payment of the indebtedness evidenced by said note or any instalment of the said principal sum and/or interest thereon, or any part thereof, or in the repayment of any disbursement authorized by the terms of this mortgage and actually made by Mortgagee, Mortgagee may at once proceed to foreclose this mortgage for the amount due, or in case of default as aforesaid, or in the event of the violation, non-performance or breach of any of the covenants, conditions, agreements or warranties herein or in said promissory note contained, or if Mortgagor shall assign or attempt to assign the rents, issues or profits or any part thereof of the property mortgaged hereby without the written consent of Mortgagee, or in case of the actual or threatened demolition or removal of any building on or to be erected upon the mortgaged property, the entire principal sum of said note hereby secured and the whole amount of all indebtedness owing by or chargeable to Mortgagor under any provision of this mortgage or intended to be secured hereby shall, at the election of Mortgagee, become immediately due and payable without notice although the time expressed in said note for the payment thereof shall not have arrived and suit may immediately be brought without notice to Mortgagor, and a decree be had to sell the mortgaged property, or any part or parts thereof, either together or in parcels, with all and every of the appurtenances, or any part thereof, in the manner prescribed by law, and out of the moneys arising from such sale to repay the said indebtedness including both principal and interest, together with the costs and charges of making such sale and of suit for foreclosure and also the amounts of all sums advanced or paid by Mortgagee to or for the account of Mortgagor, with interest thereon, as herein provided, including such payments of liens, taxes or other encumbrances as may have been made by Mortgagee by reason of the provisions herein given, and the overplus, if any there be, shall be paid by the party making such sale, on demand, to Mortgagor.

10. In case suit or action is commenced to foreclose this mortgage, the court may, upon the motion of Mortgagee,

appoint a receiver to collect the rents and profits arising out of the mortgaged property and to take possession, management and control of the mortgaged property during the pendency of such foreclosure or until payment of the debt hereby secured, and apply the said rents and profits to the payment of the amount due under this mortgage, first deducting all proper charges and expenses attending the execution of said trust.

11. Upon the commencement of any proceedings to collect the indebtedness or disbursements secured hereby, or any part thereof, by foreclosure of this mortgage or otherwise, there shall become due, and Mortgagor agrees to pay, in addition to the costs and charges allowed by law, a reasonable sum as and for an attorney's fee as an additional indebtedness hereunder and under the note secured hereby and it is agreed that this mortgage shall stand as security therefor. It is also agreed that Mortgagor will pay any amount Mortgagee may incur or pay for any abstract or continuation of abstract of title, certificate or insurance of title or other evidence of title subsequent to this date on any of the mortgaged property, and this mortgage shall secure payment thereof.

12. Mortgagor further covenants and agrees, that in the event of a sale of the mortgaged property, or any part or parts thereof, under and by virtue of the provisions of this mortgage, the purchaser or purchasers thereof shall have immediate and peaceable possession of the same and that if Mortgagor remains in possession after the effective date of such sale, such possession shall be construed as a tenancy at sufferance only, giving unto the purchaser all remedies, by way of summary possession or otherwise, conferred by law in such case.

13. That Mortgagor hereby assigns and transfers as additional security to Mortgagee all damages, royalties and revenues of every kind, nature and description whatsoever that Mortgagor may be entitled to receive from any person, company or corporation owning or having or hereafter acquiring a right to the oil, gas or mineral rights and reservations of the premises above described, with the right in Mortgagee to receive and receipt therefor and apply the same to said indebtedness either before or after any default hereunder, and Mortgagee may demand, sue for and recover any such payments but shall not be required to do so.

14. Upon request of Mortgagor, Mortgagee may hereafter, at its option, at any time before full payment of this mortgage, make further advances to or for the account of Mortgagor and any such further advances, with interest, shall be secured by this mortgage and shall be evidenced by an additional note then to be given by Mortgagor to Mortgagee payable on or before the maturity of the indebtedness secured by this mortgage and bearing such other terms as Mortgagee may require; provided, however, that the amount of principal secured by this mortgage and then remaining unpaid, shall not at the time of and including any such advance exceed the original principal sum secured hereby. Mortgagor does covenant and agree to and with Mortgagee to repay Mortgagee all such further advances made as aforesaid with interest; that such further advances and each note evidencing the same shall be secured by this mortgage, and that all of the covenants and agreements in this mortgage contained shall apply to such advances as well as to the original principal sum, and all other indebtedness secured hereby; provided, further, that nothing herein contained shall be deemed to affect, impair or limit the right of Mortgagee, without request by Mortgagor, to exercise any rights or powers elsewhere in this mortgage given to protect the security, by making advances to pay taxes, assessments, insurance or otherwise, nor shall anything herein contained limit the amount that shall be secured by this mortgage if such amount is increased by advances so made by Mortgagee to protect the security.

15. That, without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of said note, and without notice or consent:

- a. Release any person liable for payment of all or any part of the indebtedness or for performance of any obligation.
- b. Make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof.
- c. Exercise or refrain from exercising or waive any right Mortgagee may have.
- d. Accept additional security of any kind.
- e. Release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property herein described.

16. The invalidity or inapplicability of any one or more covenants, conditions, agreements, phrases, clauses, sentences or paragraphs of this mortgage shall not affect the remaining portions of the mortgage or any part thereof, and in such event this mortgage shall be construed as if such invalid or inapplicable covenants, conditions, agreements, phrases, clauses, sentences or paragraphs, if any, had not been inserted herein. The covenants herein contained shall bind, and the benefits and advantages hereof shall inure to, the respective heirs, legatees, devisees, executors, administrators, successors and assigns of the parties hereto. Whenever used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. This mortgage shall be construed to be applicable to and include a corporation or corporations that may be a party or parties hereto.

17. Upon a full and complete performance of the covenants and agreements herein contained this mortgage shall be null and void, otherwise it shall be and remain in full force and effect.

IN TESTIMONY WHEREOF, Mortgagor has set his hand and seal the day and year first above written:

William F. Hill
William F. Hill (SEAL)

Signed, Sealed and Delivered
in the Presence of

Shirley C. Hill
Shirley C. Hill (SEAL)

(SEAL)

(SEAL)

STATE OF OREGON

COUNTY OF Klamath

2933

I, the undersigned, a Notary Public in and for said County and State, do hereby certify that on this 8th day of October A.D. 1965, personally appeared before me the within named William F. Hill and Shirley C. Hill

personally known to me to be the individuals described in and who executed the within and foregoing instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS My hand and official seal the day and year in this certificate first above written.

Howard Bainbridge, Notary Public.

Residing at Klamath Falls, Oregon.

My Commission Expires March 13, 1966

PG 2-151 797

ARIZONA-COLORADO
IDAHO-NEW MEXICO-UTAH
OREGON-WASHINGTON
Mortgage

TO
THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA

Office of County Clerk
STATE OF OREGON
County of Klamath

I hereby certify that the within Mortgage was filed for Record in this office on the 19th day of October, A.D. 1965 at 3:37 o'clock P.M. and was duly recorded in Book M-65 of Mortgages on pages 2930

Dorothy Rogers

County Clerk

By *Shirley M. Hester* Deputy

Fee \$6.00

COMP. 10-10-65

H. Bainbridge 10-30-65