

1 THIS CONTRACT OF SALE of real and personal property made this  
2 7th day of September, 1972, between ARTHUR N. DAVIS, also known as  
3 Arthur Newton Davis, and JOAN DAVIS, husband and wife, hereinafter  
4 called "Vendor", and K. E. RICARDS and EDNA RICARDS, husband and wife,  
5 hereinafter called "Purchaser";

6 W I T N E S S E T H:

7 Vendor agrees to sell to Purchaser and Purchaser hereby agrees  
8 to buy from Vendor, at the price and on the terms, covenants, condi-  
9 tions and provisions hereinafter contained, all of the real property  
10 described in Exhibit "A" and personal property described in Exhibit  
11 "B" situate in Klamath County, Oregon, which exhibits are attached  
12 hereto and thereby made a part hereof as though fully set forth  
13 hereat.

14 SPECIAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

15 The purchase price of the property, which Purchaser agrees to  
16 pay, is the sum of \$145,000.00 representing the aggregate of the  
17 following:

- 18 (a) \$142,573.32 for said real property;  
19 (b) \$2,426.68 for said personal property, receipt of payment  
20 for which Vendor acknowledges and Purchaser acknowledges receipt  
21 of Vendor's Bill of Sale for the same.

22 The \$142,573.32 purchase price of the real property above des-  
cribed is payable as follows:

- 23 (a) \$22,573.32 down payment, receipt of which is hereby acknow-  
24 ledged.  
25 (b) \$120,000.00 deferred balance payable in the following manner:

26 (1) Purchaser assumes and agrees to pay the existing  
27 mortgage against said property, on which the principal  
28 balance currently due is \$80,000.00 and to perform in  
29 full the terms and conditions thereof, said mortgage  
30 having been made by Vendor as mortgagor to Director of  
31 Veterans' Affairs as mortgagee on the 24th day of July,  
32 1972, and recorded on the 26th day of July, 1972, in  
Volume M72, page 8198, Mortgage Records of Klamath  
County, Oregon. Purchaser agrees to hold Vendor harmless  
from any and all claims by said mortgagee and agrees to  
pay interest to said mortgagee according to such rates  
as said mortgagee may from time to time fix on said loan  
secured by said mortgage. Purchaser understands that  
the initial rate of interest upon his assumption of said



1 mortgage shall be seven (7%) percent.

2 (2) \$40,000.00, the remainder of said purchase price,  
3 payable as follows: Interest only on December 31, 1972;  
4 annual installments of \$4,247.55, or more, inclusive of  
5 interest, on the 31st day of December, 1973; and a like  
6 installment on the 31st day of each December thereafter  
7 to and including the 31st day of December, 1990, with a  
8 final installment of the then unpaid principal and interest  
9 on December 31, 1991.

10 The deferred balance shall bear interest at the rate of seven (7%)  
11 percent per annum from the date of this contract on declining balances  
12 thereof. All installments falling due on December 31, 1973, and  
13 thereafter, shall be inclusive of interest accrued to the date such  
14 installment is received by the Escrow Holder.

15 All installments to Vendor by Purchaser shall be paid without  
16 demand to the Escrow Holder hereinafter named and shall be applied  
17 first to interest due at the time of payment of any such installment  
18 and then to principal.

19 All partial payments, increased installments or prepayments shall  
20 also be applied first to interest accrued to the date thereof, and  
21 then to principal.

22 From and after January 1, 1973, Purchaser may increase any install-  
23 ment or prepay all or any part of the whole consideration at any time.

24 No partial payment nor increased installment, nor payment for a par-  
25 tial release by reason of a condemnation, shall be credited in lieu  
26 of any regular future installment nor excuse Purchaser from making  
27 the regular installments specified in this contract.

28 Purchaser shall be entitled to possession of the above described  
29 real property on the date hereof, subject to the following reservations  
30 by Vendor:

31 (a) Vendor hereby expressly reserves possession of the  
32 dwelling house and outbuildings until September 30, 1972,  
whereupon Vendor shall vacate the same and leave them in  
the same condition as they now are, reasonable wear and  
tear and damage by causes beyond Vendor's control alone  
excepted. Vendor shall not be obligated to pay Purchaser  
for the use of said dwelling house or outbuildings. Vendor  
shall occupy the dwelling house and outbuildings at his  
risk with regard to any injury that may be caused to Vendor,



1 Vendor's family, or invitees.

2 (b) Vendor hereby reserves the use of all farm land upon which  
3 hay and grain crops are presently growing and also retains and  
4 does not sell to Purchaser the title to all hay and grain crops  
5 presently growing on the premises. Vendor agrees to harvest  
6 said hay and grain crops as promptly as practical, subject to  
7 climatic conditions, and to remove them from the premises by  
8 November 1, 1972. As Vendor removes the hay and grain crops  
9 from each field, Purchaser shall be entitled to possession of  
10 said harvested field.

11 GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

12 The real property above described hereby sold to Purchaser  
13 includes, all and singular, the tenements, hereditaments, rights,  
14 easements, privileges and appurtenances thereunto belonging, buildings,  
15 fixtures thereon, including, but not limited to, stationary pumps,  
16 pumping stations, motors, engines, reservoirs, nonportable pipes and  
17 flumes or other nonportable equipment now used for the production  
18 of water thereon or for the irrigation or drainage thereof, and the  
19 reversions, remainders, rents, issues and profits thereof, together  
20 with all the rights to the use of water for irrigating said premises  
21 and for domestic use thereon to which Vendor is now entitled, or  
22 which are now used on said premises, however the same may be evi-  
23 denced, and together with all rights to the use of water for irri-  
24 gating said premises and for domestic use thereon to which Vendor  
25 is now entitled, or which are now used on said premises, however  
26 the same may be evidenced, and together with all shares of stock  
27 or shares of water in any ditch or irrigation company which, in any  
28 manner, entitles the Vendor water for irrigating or domestic purposes  
29 upon said real property. The Vendor's lien created by this contract  
30 shall and does hereby include the real property above described,  
31 together with, all and singular, the tenements, hereditaments, rights,  
32 easements, privileges and appurtenances thereunto belonging, buildings  
and all fixtures now or hereafter thereon, including, but not limited  
to, stationary pumps, pumping stations, motors, engines, reservoirs,  
nonportable pipes and flumes or other nonportable equipment now or  
hereafter used for the production of water thereon for the irrigation



1 or drainage thereof, and the reversions, remainders, rents, issues  
2 and profits thereof, and together with all the rights to the use  
3 of water for irrigating said premises and for domestic use thereon  
4 to which said real property is now or may hereafter become entitled,  
5 or which now are or may hereafter be used on said premises, however  
6 the same may be evidenced, and together with all shares of stock or  
7 shares of water in any ditch or irrigation company which in any  
8 manner entitles the legal or equitable owner thereof to water for  
9 irrigating or domestic purposes upon said real property. In addi-  
10 tion, Purchaser hereby agrees that the Vendor's lien is superior  
11 to any and all rights of Purchaser under and by virtue of any home-  
12 stead, stay or exemption laws now in force, or which may hereafter  
13 become laws and that no timber will be cut from any of the real pro-  
14 perty subject to said lien.

15 Vendor hereby warrants that he has good and merchantable title  
16 to the real property above described, subject to the exceptions  
17 above set forth. Vendor will, upon execution hereof make and execute  
18 in favor of Purchaser, a good and sufficient Warranty Deed conveying  
19 said premises free and clear as of this date of all encumbrances,  
20 subject to the above set forth exceptions, and will place said deed,  
21 together with the original of this agreement, and any other convey-  
22 ances or title or security instruments required hereby in escrow at  
23 Klamath Falls Branch of First National Bank of Oregon with instruc-  
24 tions to said Escrow Holder that when and if the Purchaser shall  
25 have paid the balance of the purchase money and interest as above  
26 specified and shall have complied with all other terms and conditions  
27 of this agreement, to deliver the same to Purchaser subject to the  
28 usual printed conditions and provisions of the standard form of  
29 escrow instructions provided by said Escrow Holder.

30 Vendor shall furnish, at his own expense, a Purchaser's Title  
31 Insurance Policy issued by Klamath County Title Co. under Order No.  
32 A-22039 insuring Purchaser's title in the above described real



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1 property in the amount of \$142,573.32 subject to the above set forth  
2 exceptions and the printed conditions and exceptions contained in the  
3 usual form of title policy issued by said title insurance company and  
4 shall deposit said policy with the above named Escrow Holder to be  
5 held in escrow for delivery to Purchaser along with Vendor's Warranty  
6 Deed according to the terms herein specified.

7 Purchaser shall be entitled to possession of the above described  
8 real property as set forth above. Purchaser shall remain in posses-  
9 sion so long as Purchaser is not in default hereunder. Purchaser  
10 shall and hereby agrees to keep said real property in clean, sanitary,  
11 sightly, attractive condition; to commit no waste or otherwise damage  
12 or injure said premises; to maintain said premises in accordance with  
13 the laws and the ordinances and regulations of any constituted  
14 authority applying to said premises and to make up no unlawful use  
15 thereof; to pay regularly and seasonably, and before the same shall  
16 become delinquent, all taxes, assessments, and charges of whatever  
17 nature (Including additional charges by reason of change of use)  
18 levied and assessed against said real property, and to pay and dis-  
19 charge all encumbrances thereafter placed thereon by Purchaser; to  
20 permit no lien or other encumbrances to be filed upon or placed  
21 against said premises without the written consent of Vendor; and  
22 it is further understood and agreed for the purposes of this pro-  
23 vision that if Purchaser fails to pay or discharge any taxes, assess-  
24 ments, liens, encumbrances, or charges, Vendor at his option and  
25 without waiver of default or breach of Purchaser, and without being  
26 obligated to do so, may pay or discharge all or any part thereof  
27 all of which said sums so paid by Vendor shall become repayable by  
28 Purchaser, together with interest at the rate of ten (10%) percent  
29 per annum, upon demand, payment of which is part of the performance  
30 of this agreement by Purchaser and a condition precedent to delivery  
31 of the Warranty Deed and other documents by the Escrow Holder.

32 Purchaser agrees to keep the buildings now on or hereafter placed

Contract of Sale  
Page 5

J. ANTHONY GIACOMINI, ATTORNEY AT LAW, KILMATH FALLS, OREGON

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J. ANTHONY GIACOMINI, ATTORNEY AT LAW, KILMATH FALLS, OREGON



1 upon the above described real property insured against loss by fire  
 2 or other casualty in an amount not less than insurable value and  
 3 shall obtain, at his expense, said insurance in the name of Vendor  
 4 as the primary insured, with an endorsement thereon providing for  
 5 loss payable to Vendor, Oregon Director of Veterans' Affairs and  
 6 Purchaser as their respective interests may appear. If a loss  
 7 should occur for which insurance proceeds shall become payable,  
 8 the Purchaser may, subject to the rights of the Oregon Director of  
 9 Veterans' Affairs, elect to either rebuild or repair the portion  
 10 of the building so destroyed or apply the proceeds to payment of  
 11 the then unpaid balance of the purchase money. If the Purchaser  
 12 elects to rebuild, he shall sign such documents as may be necessary  
 13 to guarantee the application of the insurance proceeds to the cost  
 14 of such rebuilding or repair. If the Purchaser elects to apply  
 15 the insurance proceeds toward payment on this contract, any amount  
 16 received by Vendor under any such insurance in payment of a loss  
 17 shall be applied upon the unpaid principal balance of the purchase  
 18 price and shall reduce said unpaid principal balance to the extent  
 19 of the amount of the insurance payment received by Vendor.

20 If the Oregon Director of Veterans' Affairs should elect to  
 21 require application of the insurance proceeds toward payment on  
 22 its mortgage security, Vendor shall give Purchaser credit toward  
 23 payment on this contract.

24 In the event any governmental agency or entity having the power  
 25 of eminent domain acquires by eminent domain, or by negotiated sale  
 26 in lieu of eminent domain, all, or any portion, of the real property  
 27 described in this contract, Vendor may require Purchaser to apply  
 28 all proceeds received by Purchaser from such acquisition (remaining  
 29 after payment by Purchaser of attorney fees, appraiser fees, and  
 30 related necessary and reasonable costs in connection with securing  
 31 said proceeds) which proceeds are hereinafter called "net proceeds"  
 32 toward the payment of the sums secured by this contract. Upon

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1 receipt of said net proceeds, Purchaser shall notify Vendor of the  
2 amount of said net proceeds and Vendor shall, within ten (10) days  
3 after such notification, notify Purchaser in writing if Vendor elects  
4 to have said net proceeds applied toward payment of the sums secured  
5 by this contract. If Vendor fails to so notify Purchaser of such  
6 election, Vendor shall conclusively be deemed to have elected not  
7 to require Purchaser to apply said net proceeds toward the sums  
8 secured by this contract. If Vendor elects to have said net pro-  
9 ceeds applied toward payment toward the sums secured by this con-  
10 tract, the amount to be received by Vendor shall not exceed the  
11 total of the principal plus accrued interest to the date of receipt  
12 thereof by Vendor, and all such sums shall be paid to the Escrow  
13 Holder named herein. Regardless of whether Vendor elects to have  
14 said net proceeds applied to the sums secured by this contract,  
15 Vendor will join in any conveyance required by the governmental  
16 agency or entity acquiring a portion or all of the real property  
17 described herein by eminent domain, but Vendor shall not be required  
18 to partially convey more property than that which is acquired by  
19 such governmental agency or entity. Vendor shall not be obligated  
20 to participate in any negotiations with such governmental agency  
21 or entity. Any notice or notices required to be given by Purchaser  
22 to Vendor pursuant hereto shall be in writing and shall be deemed  
23 given when the same is deposited in the United States Mail, as  
24 certified mail, postage prepaid, addressed to Vendor at the last  
25 address of Vendor shown on the records of the Escrow Holder.

26 Vendor may appear in or defend any action or proceeding at law,  
27 in equity, or in bankruptcy, affecting in any way the security hereof,  
28 and in such event, Vendor shall be allowed and paid, and Purchaser  
29 hereby agrees to pay, all costs, charges and expenses, including  
30 costs of evidence of title or validity and priority of the security  
31 and attorney's fees in a reasonable sum, incurred in any such action  
32 or proceeding in which Vendor may appear, which shall bear interest



1 at ten (10%) percent from date of demand therefor. Failure of Pur-  
2 chaser to pay Vendor for such costs, charges and expenses within  
3 90 days from date of demand therefor shall constitute a breach of  
4 this contract.

5 If Purchaser shall fail to perform any of the terms of this  
6 agreement, time of payment and performance being of the essence,  
7 Vendor shall, at his option, subject to the requirements of notice  
8 as herein provided, have the following rights:

- 9 (a) To foreclose this contract by strict foreclosure in  
10 equity;  
11 (b) To declare the full unpaid balance of the purchase price  
12 immediately due and payable;  
13 (c) To specifically enforce the terms of this agreement by  
14 suit in equity; and  
15 (d) To declare this agreement null and void as of the date  
16 of the breach and to retain as liquidated damages the amount  
17 of the payments heretofore made upon said premises. Under  
18 option (d) all of the rights, title and interest of Purchaser  
19 shall revert and revest in Vendor without any act of re-entry  
20 or without any other act by Vendor to be performed, and  
21 Purchaser agrees to peaceably surrender the premises to Vendor,  
22 or in default thereof, Purchaser may, at the option of Vendor,  
23 be treated as a tenant holding over unlawfully after the expira-  
24 tion of a lease and may be ousted and removed as such.

25 Purchaser shall not be deemed in default for failure to perform  
26 any covenant or condition of this contract, other than the failure  
27 to make payments as provided for herein, until notice of said default  
28 has been given by Vendor to Purchaser and Purchaser shall have failed  
29 to remedy said default within 30 days after the giving of the notice.

30 If Purchaser shall fail to make payments as herein provided and  
31 said failure shall continue for more than 30 days after the payment  
32 becomes due, Purchaser shall be deemed to be in default and Vendor  
shall not be obligated to give notice to Purchaser of a declaration  
of said default.

Where notice in writing is required by Vendor to the Purchaser,  
such notice shall be deemed given when the same is deposited in the  
United States mail as registered mail, addressed to the last address  
of Purchaser shown on the records of the Escrow Holder.



1 No waiver by Vendor of any breach of any covenant of this agree-  
2 ment shall be construed as a continuing waiver of any subsequent breach  
3 of such covenant nor as a waiver of any breach of any other covenant  
4 nor as a waiver of the covenant itself.

5 In the event any suit or action is commenced to foreclose this  
6 contract. the court having jurisdiction of the case may, upon motion  
7 by Vendor, appoint a receiver to collect the rents and profits arising  
8 out of the above described real property and to take possession,  
9 management and control of the same during pendency of such foreclosure  
10 proceeding or until payment of the obligations hereby secured, and  
11 apply said rents and profits to the payment of the amount due here-  
12 under, first deducting all proper charges and expenses attending  
13 the execution of said receivership.

14 Upon the commencement of any suit or action to collect the  
15 indebtedness or disbursements, secured hereby, or any part thereof,  
16 or to enforce any provision of this contract by specific performance,  
17 foreclosure, or otherwise, there shall become due, and Purchaser  
18 agrees to pay to Vendor, in addition to all statutory costs and dis-  
19 bursements, any amount Vendor may incur or pay for any title report,  
20 title search, insurance of title, or other evidence of title subse-  
21 quent to the date of this contract on any of the real property above  
22 described and this contract shall be security for the payment thereof.

23 In the event any suit or action is instituted to collect the  
24 indebtedness or disbursements secured hereby, or any part thereof,  
25 or to enforce any provision of this contract by specific performance,  
26 or foreclosure, or otherwise, the prevailing party, at trial or on  
27 appeal, shall be entitled to such reasonable attorneys' fees as shall  
28 be fixed by the court having jurisdiction of the case, in addition  
29 to statutory costs and disbursements.

30 This agreement contains the full understanding of the parties  
31 with respect to the subject hereof and no modification hereof shall  
32 be given effect unless the same be in writing subscribed by the



1 parties hereto or their successors in interest.

2 This agreement shall bind and inure to the benefit of, as the  
3 circumstances may require, the parties hereto, and their respective  
4 successors, heirs, executors, administrators and assigns.

5 In construing this agreement, the singular shall include both  
6 the singular and the plural and the masculine both the masculine  
7 and the feminine.

8  
9 Arthur N. Davis  
10 Arthur N. Davis

11 Joan Davis  
12 Joan Davis

13 Vendor

14 K. E. Ricards  
15 K. E. Ricards

16 Edna Ricards  
17 Edna Ricards

18 Purchaser

J. ANTHONY GIACOMINI, ATTORNEY AT LAW, KLAMATH FALLS, OREGON

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4 named A  
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12 STATE OF OREGON  
13 COUNTY OF KLAMATH  
14 On the 2 day  
15 named K. E. RICARDS and  
16 the foregoing instrument  
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1 STATE OF OREGON )  
2 COUNTY OF KLAMATH ) ss.

3 On the 7<sup>th</sup> day of September, 1972, personally appeared the above  
4 named ARTHUR N. DAVIS and JOAN DAVIS, husband and wife, and acknowledged  
5 the foregoing instrument to be their voluntary act and deed.

6 Before me:

7 Robert L. Norton

8 Notary Public for Oregon

9 My commission expires: 8/9/76

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12 STATE OF OREGON )  
13 COUNTY OF KLAMATH ) ss.

14 On the 7<sup>th</sup> day of September, 1972, personally appeared the above  
15 named K. E. RICARDS and EDNA RICARDS, husband and wife, and acknowledged  
16 the foregoing instrument to be their voluntary act and deed.

17 Before me:

18 Robert L. Norton

19 Notary Public for Oregon

20 My commission expires: 8/9/76

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Contract of Sale  
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South 890.38' East  
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EXHIBIT A

The following described real property situate in Klamath County, Oregon:

PARCEL 1

SW $\frac{1}{4}$ NE $\frac{1}{4}$  and those portions of the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$  and NE $\frac{1}{4}$ SW $\frac{1}{4}$  lying North of the Northerly right of way line of the Dairy-Bonanza Highway in Sec. 36, Twp. 38 South, Range 11 $\frac{1}{2}$  E.W.M., EXCEPTING THEREFROM that portion conveyed to J. B. Horsley, et ux, by deed dated November 8, 1945, and recorded February 11, 1946 in Book 185 at page 124 of Deed Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM the Easterly 30 feet of said E $\frac{1}{2}$ SE $\frac{1}{4}$ ;

PARCEL 2

Lots 2, 3, 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$  and that portion of the SE $\frac{1}{4}$ NE $\frac{1}{4}$  and the NE $\frac{1}{4}$ SE $\frac{1}{4}$  lying South of the Southerly right of way line of the Dairy-Bonanza Highway and also the North 420 feet of the S $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 6, Twp. 39 South, R. 11, E.W.M.,;

EXCEPT the following described as:

Beginning at an iron pin located North 0°13' East 183.7 feet and thence North 29°51' West 843.7 feet from the center quarter corner of Sec. 6, Twp. 39 S., R. 11 E.W.M.; thence North 89°38' West 2218.77 feet to an iron pin; thence North 68.7 feet to an iron pin; thence South 89°38' East 2218.77 feet to an iron pin; thence South 68.7 feet, more or less, to the point of beginning.

EXCEPTING from the above described Parcels 1 and 2 those portions thereof conveyed for, or being used for, highway or railroad purposes.

PARCEL 3

Beginning at an iron pin located North 0°13' East 183.7 feet from the center quarter corner of Sec. 6, Twp. 39 S., R. 11 E.W.M.; thence N. 29°51' West 843.7 feet to an iron pin; thence South 89°38' East 423.37 feet to an iron pin; thence South 0°13' West 728.5 feet, more or less, to the point of beginning.

SUBJECT TO: 1972-73 taxes and assessments; terms and conditions of special assessments as farm use and the right of the county to additional taxes in the event said use should be changed; liens and assessments of Klamath Project and Horsefly Irrigation District and regulations, assessments, contracts, water and irrigation rights in connection therewith; mortgage, including the terms and provisions thereof, wherein Arthur Newton Davis and Joan Davis, husband and wife, and mortgagor, and State of Oregon by and through its Director of Veterans Affairs is mortgagee, recorded in Volume M72, page 8198, Mortgage Records of Klamath County, Oregon, given to secure their promissory note in the face amount of \$80,000.00; easements and rights of way of record and apparent thereon.

EXHIBIT "A"

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of condi



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The following described personal property situate in Klamath County, Oregon, and located on the real property described in Exhibit "A":

<u>Item No.</u>	<u>Description</u>
1	1966 John Deere hay baler
2	John Deere ditcher
3	Oliver 10 ft. grain drill
4	John Deere disc
5	Old pasture harrow
6	Ford posthole digger
7	1965 2010 John Deere tractor

Purchaser accepts said personal property as is and with no warranty of condition.

STATE OF OREGON, }  
County of Klamath } ss.  
Filed for record at request of:  
KLAMATH COUNTY TITLE CO.  
on this 8th day of SEPTEMBER A. D. 1972  
at 2:30 o'clock PM. and duly  
recorded in Vol. M 72 of DEEDS  
Page 10129  
WM. D. MILNE, County Clerk  
By *Hazel Craig*  
Fee \$26.00 Deputy.

Return  
*J. Anthony Giaccone*  
635 Main  
Klamath Falls, Oregon  
97601

Personal Property Description

EXHIBIT "B"