

USDA-FHA
Form FHA 427-1 OR
(Rev. 6-4-71)

Position 5

28-4807

REAL ESTATE MORTGAGE FOR OREGON
(INSURED LOANS TO INDIVIDUALS)

Vol. 111 Page 5670

76309

KNOW ALL MEN BY THESE PRESENTS, Dated MAY 7, 1973
WHEREAS, the undersigned CLAUDE T. HAGERTY AND MARILYN S. HAGERTY, HUSBAND
AND WIFE

residing in KLAMATH County, Oregon, whose post office address is
STAR RT., BOX 74-A, MALIN, Oregon 97632

herein called "Borrower," are (is) justly indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more certain promissory note(s) or assumption agreement(s), herein called "note" (if more than one note is described below, the word "note" as used herein shall be construed as referring to each note singly or all notes collectively, as the context may require), said note being executed by Borrower, being payable to the order of the Government in installments as specified therein, authorizing acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and being further described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
MAY 7, 1973	\$21,800.00	5%	MAY 7, 2013

WHEREAS, the note evidences a loan to Borrower in the principal amount specified therein, made with the purpose and intention that the Government, at any time, may assign the note and insure the payment thereof pursuant to the Consolidated Farmers Home Administration Act of 1961, or Title V of the Housing Act of 1949; and

WHEREAS, when payment of the note is insured by the Government, it may be assigned from time to time and each holder of the insured note, in turn, will be the insured lender; and

WHEREAS, when payment of the note is insured by the Government the Government will execute and deliver to the insured lender along with the note an insurance endorsement insuring the payment of all amounts payable to the insured lender in connection with the loan; and

WHEREAS, when payment of the note is insured by the Government, the Government by agreement with the insured lender set forth in the insurance endorsement may be entitled to a specified portion of the payments on the note, to be designated the "annual charge"; and

WHEREAS, a condition of the insurance of payment of the note will be that the holder will forego his rights and remedies against Borrower and any others in connection with the loan evidenced thereby, as well as any benefit of this instrument, and will accept the benefits of such insurance in lieu thereof, and upon the Government's request will assign the note to the Government; and

WHEREAS, it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the note, this instrument shall secure payment of the note; but when the note is held by an insured lender, this instrument shall not secure payment of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage to secure the Government against loss under its insurance endorsement by reason of any default by Borrower;

NOW, THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt payment of the note and any renewals and extensions thereof and any agreements contained therein, (b) at all times when the note is held by an insured lender, to secure performance of Borrower's agreement herein to indemnify and save harmless the Government against loss under its insurance endorsement by reason of any default by Borrower, and (c) in any event and at all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower does hereby grant, bargain, sell, convey, mortgage, and assign with general warranty unto the

Government the following property situated in the State of Oregon, County(ies) of KLAMATH

FHA 427-1 OR (Rev. 6-4-71)

The SE 1/4 NW 1/4, SW 1/4 NE 1/4 of Section 5, Township 41 South, Range 12 East of the Willamette Meridian, EXCEPTING that portion more particularly described as follows:

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A parcel of land in the Northwest corner of the SE 1/4 NW 1/4, Section 5, Township 41 South, Range 12 East of the Willamette Meridian; said parcel being 160 feet extending East and West and 200 feet North and South and being further described as follows:

Commencing at the Northwest corner of the SE 1/4 NW 1/4 of Section 5, Township 41 South, Range 12 East of the Willamette Meridian; running thence East along the 40 line a distance of 160 feet; thence South 200 feet; thence West 160 feet; thence North to the point of beginning.

ALSO EXCEPTING THEREFROM the Westerly 30 feet of said SE 1/4 NW 1/4.

SUBJECT TO: Mortgage, including the terms and provisions thereof, dated May 9, 1967, recorded May 11, 1967 in M67 at page 3514, given to secure the payment of \$30,000.00, with interest thereon and such future advance as may be provided therein, executed by Garry M. Freitag sometimes known as Garry Freitag and Gary Freitag and Gertrude M. Freitag, sometimes known as Gertrude Freitag, husband and wife, to The Prudential Insurance Company of America, a corporation, Financing statements filed May 11, 1967, under instrument no. 14070 from Garry M. Freitag, sometimes known as Garry Freitag and Gary Freitag, and Gertrude M. Freitag, sometimes known as Gertrude Freitag, husband and wife, to The Prudential Insurance Company of America, said Financing statement was continued by continuation filed April 17, 1972, Financing statement filed April 19, 1971 under instrument no. 50746 from Claude and Evelyn Hagerty, a partnership, and Marilyn Hagerty, wife of Claude Hagerty, to Klamath Production Credit Association, regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Shasta View Irrigation District and Klamath Basin Improvement District (Subject to the terms and provisions of that certain instrument recorded July 24, 1970 in Volume M-70 at page 6187 as "Notice to persons intending to Plat Lands within the Klamath Basin Improvement District.") subject, however, to all valid outstanding easements, rights-of-way, mineral leases, mineral reservations, and mineral conveyances of record.

1100 feet 6" Steel Mainline
200 feet 4" Steel Mainline
500 feet 5" Aluminum Mainline
1320 feet 6" Aluminum Mainline
1320 feet 4" Aluminum Lateral
640 feet 3" Aluminum Lateral
60 Sprinkler Heads

1 Cornell Pump, Serial #7511
1 Pacific Pump, Serial #5 P 10466
1 General Electric Motor,
Serial #UVJ 78266
1 Westinghouse Motor, Serial
#5-3U269 M

C. H. L. H. H.

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 fixtures.

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- (6) To use the loan evidenced by the note solely for purposes authorized by the Government.
(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property and promptly deliver to the Government without demand receipts evidencing such payments.
(8) To keep the property insured as required by and under insurance policies approved by, delivered to, and retained by the Government.

to make repairs required by the Government; operate the property in a

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together with all rights, interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, ranges, refrigerators, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance or condemnation of any part thereof or interest therein all of which are herein called "said property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

BORROWER for himself, his heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

(1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured lender, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.

(2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.

(3) At all times when the note is held by an insured lender, any amount due and unpaid under the terms of the note, less the amount of any annual charge, may be paid by the Government to the holder of the note as provided in the insurance endorsement for the account of Borrower. Any amount due and unpaid under the terms of the note, whether it is held by the Government or by an insured lender, may be credited by the Government on the note and thereupon shall constitute an advance by the Government for the account of Borrower. Any advance by the Government as described in this paragraph shall bear interest at the note rate from the date on which the amount of the advance was due to the date of payment to the Government.

(4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts required herein to be paid by Borrower and not paid by him when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.

(5) All advances by the Government as described in this instrument, with interest, shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of his covenant to pay. Such advances, with interest, shall be repaid from the first available collections received from Borrower. Otherwise, any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.

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(6) To use the loan evidenced by the note solely for purposes authorized by the Government.

(7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property and promptly deliver to the Government without demand receipts evidencing such payments.

(8) To keep the property insured as required by and under insurance policies approved by, delivered to, and retained by the Government.

(9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.

(10) To comply with all laws, ordinances, and regulations affecting the property.

(11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.

(12) Neither the property nor any portion thereof or interest therein shall be assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclus-

Statement filed April 13, 1971, in favor of Claude and Evelyn Hagerty, a partnership, and Marilyn Hagerty, wife of Claude Hagerty, to Klamath Production Credit Association, regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Shasta View Irrigation District and Klamath Basin Improvement District (Subject to the terms and provisions of that certain instrument recorded July 24, 1970 in Volume M-70 at page 6187 as "Notice to persons intending to Plat Lands within the Klamath Basin Improvement District.") subject, however, to all valid outstanding easements, rights-of-way, mineral leases, mineral reservations, and mineral conveyances of record.

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1 Westinghouse Motor, Serial
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C.H. *[Signature]*

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 fixtures.

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- (6) To use the loan evidenced by the note solely for purposes authorized by the Government.
- (7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property and promptly deliver to the Government without demand receipts evidencing such payments.
- (8) To keep the property insured as required by and under insurance policies approved by, delivered to, and retained by the Government.
- (9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.
- (10) To comply with all laws, ordinances, and regulations affecting the property.
- (11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.
- (12) Neither the property nor any portion thereof or interest therein shall be assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured lender shall have any right, title or interest in or to the lien or any benefits hereof.
- (13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.
- (14) The Government may extend and defer the maturity of and renew and reamortize the debt evidenced by the note or any indebtedness to the Government secured hereby, release from liability to the Government any party so liable thereon, release portions of the property from and subordinate the lien hereof, and waive any other rights hereunder, without affecting the lien or priority hereof or the liability to the Government of Borrower or any other party for payment of the note or indebtedness secured hereby.
- (15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.
- (16) Default hereunder shall constitute default under any other real estate or crop or chattel security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.
- (17) SHOULD DEFAULT occur in the performance or discharge of any obligation secured by this instrument, or should any one of the parties named as Borrower die or be declared an incompetent, a bankrupt, or an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future law.
- (18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debt of Borrower owing to or insured by the Government, in the order specified above.
- (19) As against the debt evidenced by the note and any indebtedness to the Government hereby secured, with respect to the property, Borrower (a) hereby relinquishes, waives, and conveys all rights, interests or consummation, of descent, dower, curtesy, homestead, valuation, appraisal, and exemption, to which Borrower is or becomes entitled under the laws and constitution of the jurisdiction where the property lies, and (b) hereby agrees that any right provided by such laws or constitution for redemption or possession following foreclosure sale shall not apply, and that no right of redemption or possession shall exist after foreclosure sale.
- (20) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.
- (21) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration, United States Department of Agriculture, at Portland, Oregon 97205, and in the case of Borrower to him at his post office address stated above.

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WITNESS the hand(s) of Borrower the day and year first above written.

Claude T. Hagerty
CLAUDE T. HAGERTY
Marilyn S. Hagerty
MARILYN S. HAGERTY

ACKNOWLEDGMENT
FOR OREGON

STATE OF OREGON
COUNTY OF KLAMATH

On this 7TH day of MAY, 19 73, personally appeared the above-named
CLAUDE T. HAGERTY AND MARILYN S. HAGERTY, HUSBAND AND WIFE

and acknowledged the foregoing instrument to be THEIR voluntary act and deed. Before me:

[NOTARIAL SEAL]
JAMES W. WESLEY
Notary Public for Oregon
My commission expires _____

James W. Wesley
Notary Public.

My Commission expires 1-20-76

STATE OF OREGON,
County of Klamath
Filed for record at request of
TRANSAMERICA TITLE INS. CO
on this 10th day of May A.D. 1973
at 3:48 o'clock P.M. and 6:00
recorded in Vol. M 73 of MORTGAGES
Page 5670
Wm. D. MILNE, County Clerk
By Hazel D. Dugan Deputy
Fee \$ 10.00