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28-5864

Vol. 77 Page 12914

THIS INDENTURE, Made this 21st day of September, 1973,
between KIRSCH BROS., a general partnership consisting of JOHN KIRSCH
and RICHARD KIRSCH,

as mortgagor, and RICHARD A. SPIELMAN and EUGENIA W. SPIELMAN, husband
and wife,

as mortgagees,

WITNESSETH, That the said mortgagor for and in consideration of the sum of FIVE
HUNDRED FORTY-ONE THOUSAND AND NO/100 -----Dollars (\$541,000.) to it
paid by the said mortgagees, do es hereby grant, bargain, sell and convey unto the said mortgagees and
assigns those certain premises situated in the County of Klamath, and State of
Oregon, and described ~~as follows~~ on Exhibit A attached hereto and by this
reference made a part hereof.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in
anywise appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits
therefrom, and any and all fixtures upon said premises at the time of the execution of this mortgage or at any
time during the term of this mortgage.

TO HAVE AND TO HOLD the said premises with the appurtenances unto the said mortgagees and
assigns forever.

THIS CONVEYANCE is intended as a Mortgage to secure the payment of the sum of FIVE
 HUNDRED FORTY-ONE THOUSAND AND NO/100 ----- Dollars
 (\$541,000.00) in accordance with the terms of that certain promissory note of which the
 following is substantially a copy, to-wit:

This indenture is further conditioned upon the faithful observance by the mortgagor of the following covenants hereby expressly entered into by the mortgagor, to-wit:

That it is lawfully seized of said premises, and now has a valid and unincumbered fee simple title thereto, except as set out on Exhibit A attached hereto,

and that it will forever warrant and defend the same against the claims and demands of all persons whomsoever;

That it will pay the said promissory note and all installments of interest thereon promptly as the same become due, according to the tenor of said note;

That so long as this mortgage shall remain in force it will pay all taxes, assessments, and other charges of every nature which may be levied or assessed upon or against the said premises when due and payable, according to law, and before the same become delinquent, and will also pay all taxes which may be levied or assessed on this mortgage or the debt thereby secured, and will promptly pay and satisfy any mechanics' liens or other incumbrances that might by operation of law or otherwise become a lien upon the mortgaged premises superior to the lien of this mortgage;

That it will keep all the improvements erected on said premises in good order and repair and will not commit or suffer any waste of the premises hereby mortgaged;

That so long as this mortgage shall remain in force it will keep the buildings now erected, or any which may hereafter be erected on said premises, insured against loss or damaged by fire to the the insurable value extent of \$ in some company or companies acceptable to said mortgagee S. and for the benefit of said mortgagee S., and will deliver all the policies and renewals thereof to said mortgagee S.

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NOW, THEREFORE, if the said mortgagor..... shall pay said promissory note....., and shall fully satisfy and comply with the covenants hereinbefore set forth, then this conveyance shall be void, but otherwise to remain in full force and virtue as a mortgage to secure the payment of said promissory note..... in accordance with the terms thereof and the performance of the covenants and agreements herein contained; it being agreed that any failure to make any of the payments provided for in said note..... or this mortgage when the same shall become due or payable, or to perform any agreement herein contained, shall give to the mortgagee S.... the option to declare the whole amount due on said note....., or unpaid thereon or on this mortgage, at once due and payable and this mortgage by reason thereof may be foreclosed at any time thereafter. And if the said mortgagor..... shall fail to pay any taxes or other charges or any lien or insurance premium as herein provided to be done, the mortgagee S.. shall have the option to pay the same and any payment so made shall be added to and become a part of the debt secured by this mortgage, and draw interest at the rate of ten per cent per annum, without waiver, however, of any right arising from breach of any of the covenants herein.

In case a complaint is filed in a suit brought to foreclose this mortgage, the court shall, upon motion of the holder of the mortgage, without respect to the condition of the property herein described, appoint a receiver to collect the rents and profits arising out of said premises, and apply such rents and profits to the payment and satisfaction of the amount due under this mortgage, first deducting all proper charges and expenses attending the execution of such trust.

In the event of suit or action being instituted to foreclose this mortgage, the mortgagor.....
its successors..... and assigns shall pay such sum as the Court shall consider reasonable as attorneys' fees for the benefit of the plaintiff, in addition to the costs and disbursements provided by statute.

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

Executed in the presence of

KIRSCH BROS.

(SEAL)

By Richard B. Kirsch (SEAL)

Partner

By S. K. Kirsch (SEAL)

Partner

(SEAL)

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STATE OF OREGON,

County of _____

} ss.

BE IT REMEMBERED, That on this _____ day of _____, 19____, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named _____

known to me to be the identical individual _____ described in and who executed the within instrument and acknowledged to me that _____ executed the same freely and voluntarily.

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

Notary Public for Oregon.

My Commission expires _____

STATE OF OREGON)
County of Klamath)

ss. September 21, 1973

Personally appeared JOHN KIRSCH and RICHARD KIRSCH, who, being first duly sworn, did say that they are the partners in that certain partnership doing business under the firm name of KIRSCH BROS., and that the foregoing instrument was signed on behalf of said partnership and they acknowledged said instrument to be the voluntary act and deed of said partnership.

Before me:

Marlene T. Addington
Notary Public for Oregon
My commission expires 3-21-77

Marlene T. Addington
NOTARY PUBLIC FOR OREGON
My commission expires 3-21-77

MORTGAGE

(FORM No. 8)

TO

STATE OF OREGON,

County of _____

I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book _____ on page _____ of Record of Mortgages of said County.

Witness my hand and seal of County affixed.

County Clerk—Recorder.

By _____

Deputy.

STEVENS-NEES LAW PUB. CO., PORTLAND

Marlene T. Addington
attn: Marlene

EXHIBIT A

TOWNSHIP 39 S., R. 11 $\frac{1}{2}$ E.W.M., Klamath County, Oregon:

PARCEL 1:

Section 20: That portion of Government Lots 5, 6, 7 and 8 lying Southerly of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which is set forth in Klamath County Deed Book 232, Page 156. SAVING AND EXCEPTING the following-described tract of land conveyed to Klamath Basin Improvement District: A portion of Lot 5, Section 20, Township 39 S., R. 11 $\frac{1}{2}$ E.W.M., 80 feet wide extending between the SE line of Lost River and the NW line of Klamath Irrigation District "F" Canal, and lying 40 feet on each side of the following-described line: Beginning at a point on the Northwesterly right of way line of the Klamath Irrigation District "F" Canal, opposite centerline Station 220+09.0 from whence the SW corner of Section 20, Township 39 S., R. 11 $\frac{1}{2}$ E.W.M., bears the following courses: S. 32°14' E. 44.0 feet; thence W. 1022.3 feet; thence from said point of beginning N. 32°14' W. 555 feet, more or less, to the Southerly shore line of Lost River.

Section 21: That portion of Government Lot 6 and the S $\frac{1}{2}$ SW $\frac{1}{4}$ lying Southerly of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which is set forth in Klamath County Deed Book 232, Page 156.

Section 27: Government Lots 7, 8 and 9.

Section 28: Government Lot 4 and the N $\frac{1}{2}$ NW $\frac{1}{4}$.

Section 29: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, that portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ lying E. of the U.S.R.S. "F" Canal; that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NE $\frac{1}{4}$ SE $\frac{1}{4}$ lying NE of the County Road.

Section 34: Government Lots 3 and 4; that portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ lying W. of Lost River; SW $\frac{1}{4}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; SW $\frac{1}{4}$ NW $\frac{1}{4}$; NE $\frac{1}{4}$ SW $\frac{1}{4}$; the E. 30 feet of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$. SAVING AND EXCEPTING the Westerly 60 feet of the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, Township 39 S., R. 11 $\frac{1}{2}$ E.W.M.

Section 35: Government Lots 10 and 11.

PARCEL 2:

Section 20: Those parts of Government Lots 7 and 8 lying N. of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which channel is set forth in Klamath County Deed Book 232 beginning at Page 156.

Section 21: Government Lots 7, 8 and 9 and those parts of Government Lot 6 and the S $\frac{1}{2}$ SW $\frac{1}{4}$ lying Northerly of the new channel of Lost River taken by the United States of America in Federal Court Civil Case No. 4309, the description of which channel is set forth in Klamath County Deed Book 232 beginning at Page 156.

The above-described property contains in the aggregate 1190 acres, more or less.

(Exhibit A - Page 1)

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SUBJECT TO: (1) 1973-74 taxes which are now a lien but not yet due and payable.

(2) Rights of the public in and to any portion of said premises lying within the limits of roads and highways.

(3) Acreage and use limitations under provisions of the United States Statutes and regulations issued thereunder. Liens and assessments of Klamath Project, Klamath Irrigation District and Poe Valley Improvement District, and regulations, contracts, easements and water and irrigation rights in connection therewith.

(4) Contracts, water rights, proceedings, taxes and assessments relating to Klamath Improvement District, and all rights of way for roads, ditches, canals and conduits, if any there may be.

(5) Instrument, including the terms and provisions thereof, recorded July 24, 1970, in Volume M-70, Page 6187, as Notice to persons intending to plat lands within Klamath Basin Improvement District.

(6) 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.

(7) Right of way and easement granted to The California Oregon Power Company, a California corporation, by an instrument, including the terms and provisions thereof, dated October 30, 1935, recorded June 20, 1936, in Book 106, Page 491, Deed Records of Klamath County, Oregon.

(8) Provisions in deed from Jacob Bartnik, et al, to Ida M. Fink, recorded in Volume 107, Page 534, Deed Records of Klamath County, Oregon.

(9) Right of way and easement granted to The California Oregon Power Company, a California corporation, by an instrument recorded August 18, 1943, in Book 157, Page 535, Deed Records of Klamath County, Oregon.

(10) Right of way and easement granted to The California Oregon Power Company, a California corporation, by an instrument, including the terms and provisions thereof, dated December 23, 1943, recorded January 5, 1944, in Book 161, Page 195, Deed Records of Klamath County, Oregon.

(11) Right of way and easement granted to The California Oregon Power Company, a California corporation, by an instrument, including the terms and provisions thereof, dated December 23, 1943, recorded February 21, 1944, in Book 162, Page 426, Deed Records of Klamath County, Oregon.

(12) Agreement pertaining to sale of excess lands, dated February 25, 1954, executed by William Paul Breithaupt, et ux, and Mary E. Breithaupt, mother of William Paul Breithaupt, to the United States of America, recorded March 15, 1954, in Book 266, Page 3, Deed Records of Klamath County, Oregon.

(13) Easement created by instrument, including the terms and provisions thereof, dated February 13, 1963, recorded May 29, 1963, in Volume 345, Page 504, in favor of Pacific Power & Light Company.

TOGETHER WITH all appliances belonging to sellers located in the ranch hands' houses and stove, refrigerator, washer and dryer located in the main residence on said ranch. Also all inventories of oil, gas and other farm supplies located on said premises.

Sellers specifically reserve to Richard A. Spielman for his lifetime the right to hunt upon said real property and to take thereon with him at any time one guest.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title

this 24 day of Sent 73 3:43 p
A. D. 19 at 12914 and
duly recorded in Vol. M-73 of mortgages

14.00 Wm D. MILNE, County Clerk

By Hazel Dragil

(Exhibit A - Page 2)

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