

A-27066

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SECOND MORTGAGE

THIS MORTGAGE, Made this 16<sup>th</sup> day of July, 1976, by  
KENNETH L. TUTTLE and KAREN L. TUTTLE, husband and wife, Mortgagors,  
to ESTHER KENEALLY, Mortgagee,

W I T N E S S E T H :

That said Mortgagors, in consideration of ONE HUNDRED  
EIGHTEEN THOUSAND FOUR HUNDRED SIXTY-THREE and 59/100 DOLLARS  
(\$118,463.59), to them paid by said Mortgagee, do hereby grant,  
bargain, sell and convey unto said Mortgagee, her heirs, executors,  
administrators and assigns, that certain real property situated  
in Klamath County, State of Oregon, bounded and described as  
follows, to-wit:

TOWNSHIP 34 SOUTH, RANGE 7 EAST OF THE  
WILLAMETTE MERIDIAN:

Section 14: The SW-1/4 NW-1/4 SW-1/4  
and the SE-1/4 NW-1/4 SW-1/4

Section 15: Government Lots 3, 4, 9 and 11;  
the SW-1/4 SE-1/4; the W-1/2  
SE-1/4 SE-1/4; the W-1/2 E-1/2  
SE-1/4 SE-1/4 and the S-1/2 NE-1/4  
SE-1/4

Section 16: Government Lot 2 and the SE-1/4  
NE-1/4 lying Easterly of Highway  
No. 97

Section 22: Government Lot 1 and the N-1/2 NE-1/4

Section 23: The W-1/2 NW-1/4 NW-1/4

SUBJECT TO:

(1) Rights of the public in and to any  
portion of the herein described property  
lying within the limits of any roads or  
highways.

(2) Rights of the Federal Government, the  
State of Oregon, and the general public in  
and to that portion of the herein described  
premises lying below the high water line of  
Williamson River.

(3) Reservations and restrictions, in-  
cluding the terms and provisions thereof,  
contained in Land Status Report, dated

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October 16, 1958, recorded October 29, 1958 in Deed Volume 305 page 90, records of Klamath County, Oregon, as follows: "The following reservations are made: (a) Right of way of Pacific Telephone and Telegraph Company, approved on December 6, 1930, by Jos. M. Dixon, First Assistant Secretary, subject to the provisions of the act of March 3, 1901 (31 Stat. L., 1058-1083) and Departmental regulations thereunder. (b) The above described property is subject to all other existing easements for public roads and highways, for public utilities, and for railroads and pipe lines and for any other easements or rights of way of record; and there is hereby reserved any and all roads, trails, telephone lines, etc., actually constructed by the United States, with the rights of the United States to maintain, operate or improve the same so long as needed or used for or by the United States. (Dept. Instr., January 13, 1916, 44 L.D. 513)." (Affects Sections 14 and 15)

(4) Right of Way Easement for transmission line, including the terms and provisions thereof, given by Francis Kirk to Pacific Power & Light Company, a corporation, dated August 29, 1966, recorded August 30, 1966 in Volume M66, page 8739, Microfilm records of Klamath County, Oregon. (Affects Sections 15 and 16)

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 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 Mortgagee, her heirs, executors, administrators and assigns forever.

This mortgage is intended to secure the payment of a promissory note, of which the following is a substantial copy:

\$118,463.59

Klamath Falls, Oregon, July 16, 1976

We, KENNETH L. TUTTLE and KAREN L. TUTTLE, husband and wife, jointly and severally, promise to pay the order of ESTHER KENEALLY at Klamath Falls, Oregon, ONE HUNDRED EIGHTEEN THOUSAND FOUR HUNDRED SIXTY-THREE and 59/100 DOLLARS, with interest thereon at the rate of seven and three-fourths percent (7-3/4%)

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per annum from July 16, 1976, until paid, principal and interest payable in annual installments of not less than \$10,681.50 in any one payment; each payment as made shall be applied first to accumulated interest and the balance to principal; the first payment is to be made on the 15th day of July, 1977, and a like payment on the 15th day of each July thereafter until the entire sum, both principal and interest, has been paid in full. If any of said installments is not so paid, the whole sum of both principal and interest is to become immediately due and collectible at the option of the holder of this note. If this note is placed in the hands of an attorney for collection, we promise and agree to pay the reasonable attorney's fees and collection costs of the holder hereof, and if suit or action is filed hereon, also promise to pay (1) holder's reasonable attorney's fees to be fixed by the trial court and (2) if any appeal is taken from any decision of the trial court, such further sum as may be fixed by the appellate court, as the holder's reasonable attorney's fees in the appellate court.

/s/ Kenneth L. Tuttle

/s/ Karen L. Tuttle

The date of maturity of the debt secured by this mortgage is the date on which the last scheduled principal payment becomes due, to-wit: July 15, 2001.

The Mortgagors warrant that the proceeds of the loan represented by the above-described note and this mortgage are primarily for Mortgagors' personal, family, household or agricultural purposes.

This mortgage is inferior, secondary and made subject to a prior mortgage on the above described real estate made by Esther Keneally to The Federal Land Bank of Spokane, a corporation, dated July 1, 1974, recorded July 23, 1974, in Volume M74, page 8989, Microfilm records of Klamath County, Oregon, to secure the payment of \$100,000.00, said prior mortgage and the obligations secured thereby hereinafter, for brevity, are called simply "first mortgage".

The Mortgagors covenant to and with the Mortgagee, her heirs, executors, administrators and assigns, that they are lawfully seized in fee simple of said premises; that the same are free from all encumbrances except said first mortgage and further except as noted in the description of the premises herein, and that they will warrant and forever defend the same against all persons; further, that they will do and perform all things required of them and pay all obligations due or to become due under the terms of said first mortgage as well as the note secured hereby, principal and interest, according to the terms thereof; that while any part of the note secured hereby remains

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unpaid they 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 secured hereby, when due and payable and before the same become delinquent; that they 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; that the Mortgagors will keep the buildings and improvements on said premises in good repair and will not commit or suffer any waste of said premises.

Now, therefore, if said Mortgagors shall keep and perform the covenants herein contained and shall pay all obligations secured by said first mortgage as well as the note secured hereby 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 of said covenants and the payments of the note secured hereby; it being agreed that a failure 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 Mortgagee 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 Mortgagors shall fail to pay any taxes or charges or any lien or encumbrance as above provided for, or fail to do or perform anything required of them by said first mortgage, the Mortgagee herein, at her option, shall have the right to make such payments and to do and perform the acts required of the Mortgagors under said first mortgage; and any payment so made, together with the cost of such performance shall be added to and become a part of the debt secured by this mortgage, and shall bear interest at the same rate as the note secured hereby without waiver, however, of any right arising to the Mortgagee for breach of covenant. And this mortgage may be foreclosed for principal, interest, and all sums paid by the Mortgagee at any time while the Mortgagors neglect to repay any sums so paid by the Mortgagee. In the event of any suit or action being instituted to foreclose this mortgage, the Mortgagors agree to pay all reasonable costs incurred by the Mortgagee for title reports and title search, all statutory costs and disbursements and such further sum as the trial court may adjudge reasonable as plaintiff's attorney's fees in such suit or action, and if an appeal is taken from any judgment or decree entered therein, Mortgagors further promise to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal, all such sums to be secured by the lien of this mortgage and included in the decree of foreclosure.

Each and all of the covenants and agreements herein contained shall apply to and bind the heirs, executors, administrators and assigns of said Mortgagors and of said Mortgagee respectively.

In case suit or action is commenced to foreclose this



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mortgage, the Court may, upon motion of the Mortgagee, appoint a receiver to collect the rents and profits arising out of said premises during the pendency of such foreclosure, and apply the same, after first deducting all of said receiver's proper charges and expenses, to the payment of the amount due under this mortgage.

Mortgagors shall not sever merchantable timber from premises without prior written consent first obtained from Mortgagee, which consent shall not be unreasonably withheld.

Mortgagors covenant with Mortgagee that Mortgagee shall not be required to accept any payment to be applied to principal sum secured hereby during the calendar year 1976.

Mortgagors covenant and agree to pay and hold Mortgagee harmless from any expenses or obligations incurred as a consequence of the use of the premises being changed from farm use to nonfarm use.

Return to  
Nicholson Co.  
323 main  
city

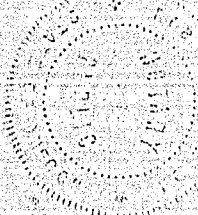
*Kenneth L. Tuttle*  
*Kenneth L. Tuttle*

STATE OF OREGON )  
County of Klamath ) ss.

Before me this 16<sup>th</sup> day of July, 1976, personally appeared the above-named KENNETH L. TUTTLE and KAREN L. TUTTLE, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

*Robert L. Norton*  
Notary Public for Oregon  
My Commission Expires: 8-9-76

(S E A L)



STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record ~~on 10/20/76~~  
this 27th day of July A. D. 19. 76 at 3:31 clock p. m.  
duly recorded in Vol. M-76, of Mortgage on Per. 11418  
Wm. D. MILNE, County Clerk

By *Hazel Drayton*

\$15.00

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