

18326

Vol. 76 Page 13396

Connecticut Mutual

LIFE INSURANCE COMPANY

Established in 1846

Hartford, Connecticut

MORTGAGE

AND

SECURITY AGREEMENT

This Indenture, made this 17th day of August, 1976, between

Stuart S. Frye and Caroline U. Frye, husband and wife, and

Robert L. Laughlin and Susan H. Laughlin, husband and wife,

all of Rancho Santa Fe, California,

hereinafter called the Mortgagor, whether one or more than one, and ~~THE~~ **Connecticut Mutual Life Insurance Company**, a corporation organized and existing under the laws of the State of Connecticut and having its Home Office and principal place of business in the City of Hartford, State of Connecticut, hereinafter called the Mortgagee,

Witnesseth That: The Mortgagor, in consideration of the sum of One Hundred Fifty-five

Thousand and no/100----- Dollars (\$155,000.00.)

to him in hand paid by the Mortgagee, the receipt of which is hereby acknowledged, does by these presents, give, grant, bargain, sell and confirm unto the Mortgagee, its successors and assigns, the following described property situated in the County of Klamath, State of Oregon, to wit:

Township 40 South, Range 14 East of the Willamette Meridian

Section 8: E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 9: NW $\frac{1}{4}$, NE $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 16: NE $\frac{1}{4}$, NE 1/4 NW 1/4.

together with all buildings, structures and other improvements, now or hereafter located thereon, and all water and water rights, all ditches and ditch rights, and all range rights, now or hereafter located thereon or appurtenant thereto, and all and singular, the tenements, hereditaments, rights, privileges and appurtenances, now or hereafter belonging, or in anywise appertaining to said property, or any part thereof, and the rents, issues and profits therefrom; and together also with all wells, windmills, reservoirs, dams, embankments, pipes, pipelines, water storage tanks and towers, and all other water developments, storage or conservation facilities and structures, all pumps and pumping plants, all motors, engines, turbines, generators, transformers and other installations, devices and facilities of every kind and description for the operation of said pumps and pumping plants, and all other machinery and equipment, now or hereafter located or used on, in or about said property, for or in connection with the irrigation of said property, or any part thereof, or for furnishing said property with water for stock or for domestic use, including, but not limited to the following: Permit No. G5680 to use 1/80th C.F.S. with a priority date of 6/29/73;

- 100 H.P. Hollowshaft Electric Turbine Pump & Motor Serial No. 1298275
- 27 Sections of 8"x50' Portable Aluminum Mainline with Risers (1,350')
- 11 Sections of 6"x50' Portable Aluminum Mainline with Risers (550')
- 12 Sections of 5"x30' Portable Aluminum Mainline (360')
- 20 Sections of 4"x30' Portable Aluminum Mainline (600')
- 110 Sections of 3"x30' Handline with Risers and Heads
- 99 Sections of 3"x40' Handline with Risers and Heads
- 6 - 3" Valve Openers
- 6 - 3" End Plugs

To Have and To Hold the same unto the Mortgagee, its successors and assigns, forever. The Mortgagor covenants that he is well seized of the property hereby conveyed as a good, indefeasible estate in fee simple and has good right and lawful authority to convey and encumber the same as herein provided; that said property is free from all encumbrances whatsoever, except as otherwise shown herein, and that he will warrant and defend the same against the claims and demands of all persons whomsoever.

This conveyance is intended as a mortgage to secure the performance of the covenants and agreements herein contained and the payment of money loaned to the Mortgagor by the Mortgagee, evidenced by that certain promissory note of even date herewith in the principal sum of One Hundred Fifty-five Thousand

and no/100----- Dollars (\$155,000.00), executed by the Mortgagor ²⁰⁰¹

and payable to the Mortgagee in installments, the last of said installments being due January 15, ~~19~~

If the Mortgagor shall pay said indebtedness according to the tenor and effect of said promissory note, or any extension or renewal thereof, and shall keep and perform all and singular the covenants and agreements herein contained, then this conveyance shall be null and void, but otherwise shall remain in full force and effect.

The Mortgagor hereby covenants and agrees with the Mortgagee as follows:

1. To pay said promissory note promptly as the same becomes due according to the tenor thereof.
2. To pay all taxes, assessments, water and other charges that may be levied, assessed or charged upon or against the property hereby conveyed, or any part thereof, or against this mortgage or the debt secured hereby, before the same become past due according to law, and submit to the Mortgagee, upon demand, receipts showing such payments.
3. To keep all improvements erected on said premises in good order and repair and not do or permit waste of said property, or do or suffer anything to be done to depreciate or impair the value thereof during the life of this mortgage; that he will not make any changes or alterations to the improvements on said property which will materially affect the same or the use to which they are devoted, or remove or recover or permit to be removed or recovered any timber or minerals, or products of either from the premises, without the written consent of the Mortgagee first had and obtained.
4. That he will, at his own cost and expense, keep the buildings and other improvements now or hereafter located on the premises insured against loss or damage by fire and windstorm, and against such other hazard or hazards as may reasonably be required by the Mortgagee at any time while the indebtedness hereby secured remains unpaid, in an amount or amounts and in a company or companies satisfactory to the Mortgagee, for the benefit of said Mortgagee, and will deliver the policies and renewals thereof to the Mortgagee, with all premiums therefor paid, and such policies and renewals are hereby assigned as additional security for the payment of all sums secured hereby. The Mortgagor hereby empowers the Mortgagee at its option to collect all amounts payable under said policies and the amount received after the cost of collection shall be applied, at the option of the Mortgagee, to the payment of the principal indebtedness hereby secured in the inverse order of maturity thereof, or to the rebuilding or repairing of the buildings or other improvements damaged or destroyed.
5. To keep the property hereby conveyed free from all liens or encumbrances which might by operation of law or otherwise be or become superior to the lien of this mortgage upon said property, and to pay all reasonable costs, expenses and attorney fees which the Mortgagee may in its discretion consider it necessary to incur in preserving or establishing this mortgage as a valid first lien against said property, or in preserving the security hereunder.
6. That should he fail to pay any taxes, assessments, insurance premiums, costs, expenses or attorney fees incurred by the Mortgagee, as hereinabove provided, or any other charges payable by him hereunder, the Mortgagee may, at its option, make payment thereof, and the amounts so paid by the Mortgagee with interest thereon at the rate of ~~10%~~ ^{10%} per annum, shall be added to and become a part of the principal debt secured by this mortgage and shall be repaid to the Mortgagee forthwith, without waiver of any right arising from breach of any of the covenants contained herein, and for such payments, with interest as aforesaid, the property hereinbefore described, as well as the Mortgagor, shall be bound to the same extent as they are bound for the payment of the note herein described.
7. In the event of the filing of any complaint or other proceedings wherein it is alleged that a default has occurred under this mortgage, the Mortgagee may apply for and shall be entitled, as a matter of right, without consideration of the value of the mortgaged property or the solvency of any person or persons bound, to the appointment of a receiver to take possession of the property and/or to collect the rents, issues and profits therefrom, with full power to lease the said property, or any part thereof, and with such other powers as may be necessary, who, after deduction of all proper charges and expenses, shall apply the residue of said rents and profits to the

payment and satisfaction of the amounts remaining secured hereby, including interest, costs and reasonable attorney fees, and the Mortgagor waives notice of the appointment of such or any receiver and consents to the same.

8. The Mortgagor hereby assigns, sells and transfers unto the Mortgagee the issues, rents and profits of the property hereby mortgaged, with full power and authority to demand, sue for and collect the same in the name of the Mortgagor, or in its own name, and to take possession of and manage the property and apply the income therefrom, after the costs of collection and management, to the reduction of the indebtedness secured hereby; provided, however, that the right to collection and management shall not apply so long as this mortgage is in good standing.
9. The Mortgagor hereby also assigns to the Mortgagee all of the rents, royalties, bonuses and benefits under any existing and/or future oil, gas or mineral lease of any of the property hereby mortgaged as additional security for the payment of the indebtedness hereby secured. The Mortgagee shall have the right to collect and retain such rents, royalties, bonuses and benefits until default hereunder, or under the note hereby secured. In the event of any such default, the Mortgagee is hereby granted the unconditional right and power, at its option, at any time while such default remains outstanding, to demand, receive, and collect such rents, royalties, bonuses and benefits, and apply same toward payment of the indebtedness hereby secured. The Mortgagee shall not be bound hereby to demand, receive or collect any of such rents, royalties, bonuses or benefits, and shall not be responsible for failure to exercise the rights hereby granted, and failure to exercise such rights after the happening of a default shall not be construed as a waiver of such rights in the event of a subsequent default.
10. That all right, title and interest of the Mortgagor in and under all leases, permits or allotments, now or hereafter held by him, covering lands owned or held in trust by the United States of America, the State of Oregon, or any governmental or political subdivision thereof, used and operated by the Mortgagor in conjunction with the fee owned property hereinabove described, are hereby mortgaged, assigned and transferred to the Mortgagee, together with all renewals thereof, and together with all buildings, structures, fences, windmills, pumps, pumping equipment, pipes, pipe lines, wells, tanks, dams, reservoirs and other improvements of every nature and description, now or hereafter located on the lands covered by said leases, permits or allotments, or any part thereof, and all water and water rights located thereon or appurtenant thereto; that he will pay all rents, fees and other charges payable under the terms of said leases, permits and allotments and perform all acts and things necessary to preserve and keep in good standing all of said leases, permits and allotments and any renewals thereof; that he will take no action which would adversely affect any of his rights or his preference status thereunder; that, in the event of the foreclosure of this Mortgage, he will waive all claims for preference in any such rights upon demand from the purchaser of the mortgaged property at foreclosure sale, or any successor to such purchaser; that the lands covered by said leases, permits and allotments, and by any renewals thereof, shall at all times be operated in conjunction with the fee owned lands hereby mortgaged and that neither shall be transferred to any other person separately from the other; and that, in case of the failure of the Mortgagor to pay any rents, fees, or other charges payable under the terms of any of said leases, permits or allotments, the Mortgagee may, at its option, make payment thereof and any amount so paid, with interest thereon at the rate of ~~12~~ 10% per annum, shall be a part of the debt secured by this Mortgage and a lien on the fee owned property hereby mortgaged, repayable immediately upon demand; the leases, permits or allotments now held by the Mortgagor being described as follows, to wit:

A BLM Individual Allotment for 300 AUMs under permit no. OR0101081 .

11. This instrument is given and accepted upon the express provision that should the undersigned sell, divest, transfer, relinquish or lose their right, title or interest in the loan security, or any portion thereof during the term of this instrument, either voluntarily or by operation of law, without the written consent of the party hereby secured, then such secured party, at its option, may accelerate all or any part of the indebtedness secured hereby and thereafter enforce the collection thereof as herein provided or in any other manner provided by law.

12. That in the event of default in the payment of said principal sum, or any part thereof, or the interest thereon, according to the terms of the note hereby secured, or in case of any failure to keep or perform any of the terms, covenants, conditions or agreements contained in this mortgage, the entire indebtedness hereby secured, shall, at the option of the Mortgagee, become immediately due and payable and the Mortgagee shall have the right to foreclose this mortgage forthwith. Notice of the exercise of such option is hereby waived by the Mortgagor. The failure of the Mortgagee to exercise such option shall not be taken or deemed a waiver of its right to exercise such option or declare such maturity as to any past or any subsequent violation of any of the terms, covenants or conditions contained herein or in said note.
13. That in the event suit or action is begun to foreclose this mortgage, the Mortgagor will pay, in addition to the costs and disbursements allowed by law, such sum as the court may adjudge reasonable as attorney fees in such suit or action, and such sum as the Mortgagee may have paid for extension of any Abstract of Title or Title Insurance with reference to the mortgaged property, or any other search fees or examination fees in connection therewith; that said attorney fees and all such further sums shall constitute a lien against said property and shall be due and payable when suit or action is instituted and shall be recovered as a part of the costs of the commencement of such suit or action, whether or not final judgment or decree therein be entered.
14. It is mutually understood and agreed that wherever the word "Mortgage" is used in this instrument, so far as the context may permit or require, it shall be construed to include and shall include the words, "and Security Agreement", so that the entire phrase shall read "Mortgage and Security Agreement."
15. Mortgagor further covenants and agrees to comply with all local zoning and state and federal laws and regulations and to comply with all environmental protection laws and regulations.

It is mutually understood and agreed that all words used in the singular number in this mortgage shall be deemed to include the plural, and the masculine gender shall include the feminine and/or neuter, as the context may require. It is further understood and agreed that all of the terms, conditions, covenants and agreements of this mortgage shall extend to and be binding upon each of the Mortgagors and the heirs, successors or assigns of each of them, and shall inure to the benefit of the Mortgagee and its successors or assigns.

In Witness Whereof, this mortgage has been signed and sealed on the day and year first hereinabove written.

XXXXXX:

Stuart S. Frye (Seal)
Stuart S. Frye

Caroline U. Frye (Seal)
Caroline U. Frye

Robert L. Laughlin (Seal)
Robert L. Laughlin

Susan H. Laughlin (Seal)
Susan H. Laughlin

California
STATE OF OREGON
COUNTY OF ~~Klamath~~ *Orange* ss.

Be it remembered that on this *18th* day of *August*, 19*76*,
before me, the undersigned, a Notary Public in and for said county and state, personally appeared the within named

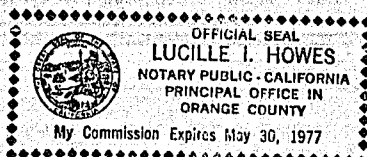
Stuart S. Frye and *Caroline U. Frye*,
husband and wife, to me personally known to be the identical individuals described in and who executed the foregoing instrument, and acknowledged to me that they executed the same freely and voluntarily.

In testimony whereof, I have hereunto set my hand and affixed my official seal the day and year last above mentioned.

My commission expires:

Lucille I. Howes
Notary Public in and for the County of

California
State of Oregon.



13400

STATE OF OREGON

COUNTY OF

ss.

19.....

Personally appeared....., who, being duly sworn,
did say that he is the..... of.....

....., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal
of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board
of Directors; and he acknowledged said instrument to be its voluntary act and deed. Before me:

Notary Public in and for the County of

My commission expires:

....., State of Oregon.

STATE OF CALIFORNIA

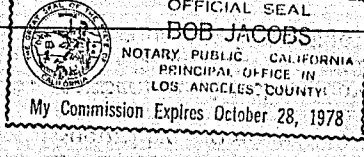
County of SAN DIEGO }

ss.

Be it remembered that on this 17th day of August, 1976, before me, the
undersigned, a Notary Public in and for said County and State, personally appeared the
within named Robert L. Laughlin and Susan H. Laughlin, husband and wife, to me personally
known to be the identical individuals described in and who executed the foregoing in-
strument, and acknowledged to me that they executed the same freely and voluntarily.

In testimony thereof, I have hereunto set my hand and affixed my official seal the day
and year last above mentioned.

My commission expires:



Bob Jacobs
Notary Public in and for the County
of Los Angeles, State of
California.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KLAMATH COUNTY TITLE CO
his 28th day of AUGUST A. D. 19 76 at 11:27 o'clock AM and

July recorded in Vol. M 76, of MORTGAGES on Page 13396

FEE \$ 15.00

Wm D. MILNE, County Clerk

Hazel Drazic

Ref:
Klam Co. Title
JC 124.151
City