

27988

REAL ESTATE MORTGAGE

Vol. 77 Page 6162

KNOW ALL MEN BY THESE PRESENTS, That on this 24th day of March, 1977,

WILLIAM S. FLESHER AND ANN E. FLESHER, Husband and wife

hereinafter called the MORTGAGORS, hereby grant, bargain, sell, convey and mortgage to

KLAMATH

PRODUCTION CREDIT ASSOCIATION,

a corporation organized and existing under the Farm Credit Act of the Congress of the United States, as amended, with its principal place of business in the City of Klamath Falls

State of Oregon, hereinafter called the MORTGAGEE, the following described real estate in the

County of Klamath

State of Oregon

to-wit:

PARCEL 1:

In Section 28:

(SEE ATTACHED SCHEDULE "A")
Except that portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$, more particularly described as follows: Beginning at a point in the section line marking the boundary between Sections 28 and 29, Twp. 40 South, Range 11 E.W.M., from which the section corner common to Sections 20, 21, 28 and 29 of the said Twp. and Range, bears North 664.3 feet distance and running thence North 664.3 feet to the said section corner; thence Easterly along the section line marking the boundary between the said Section 21 and 28, 1310.5 feet, more or less, to the Northeast corner of the said NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 28, Twp. 40 South, Range 11 E.W.M.; thence South 63°56' West 1465.6 feet, more or less, to the said point of beginning, and conveyed to Lewis Kandra and Edith Kandra by deed recorded in Book 128 at page 523 of Deed Records of Klamath County, Oregon.

NE $\frac{1}{4}$ SE $\frac{1}{4}$

In Section 29:

That portion of NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 29, more particularly described as follows: Beginning at a point in the Section line marking the boundary between Sections 28 and 29, Twp. 40 South, Range 11 E.W.M., from which the section corner common to Sections 20, 21, 28 and 29 of said Twp. and Range, bears North 664.3 feet distant and running thence South along the said Section line 664.3 feet, more or less, to the Southeast corner of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 29; thence Westerly along the Southerly boundary of said NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 29, 1320 feet, more or less, to the Southwest corner thereof; thence North 63°56' East 1475.8 feet, more or less, to the said point of beginning; SE $\frac{1}{4}$ SE $\frac{1}{4}$

In Section 32:

NE $\frac{1}{4}$ NE $\frac{1}{4}$; Excepting therefrom right of way granted to Klamath County in M-67 at page 2667.

In Section 33:

NW $\frac{1}{4}$ NE $\frac{1}{4}$, Saving and Excepting Therefrom the following described portion: Beginning at the Northwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence Southeasterly in a direct line to the Southeast corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence West on forty line to the Southwest corner of said NW $\frac{1}{4}$ NE $\frac{1}{4}$; thence North on the forty line 1320 feet, more or less, to the point of beginning.

NW $\frac{1}{4}$ NW $\frac{1}{4}$;
SE $\frac{1}{4}$ SE $\frac{1}{4}$;

That portion of SW $\frac{1}{4}$ NW $\frac{1}{4}$ described as follows: Beginning at the Northwest corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$; thence East on the forty line 870 feet to a point; thence Southwesterly in a direct line to a point in the South line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$, which point is 450 feet East of the Southwest corner of said SW $\frac{1}{4}$ NW $\frac{1}{4}$; thence West on the forty line 450 feet to the Southwest corner of said SW $\frac{1}{4}$ NW $\frac{1}{4}$; thence North on the forty line 1320 feet, more or less, to the point of beginning.

That portion of SW $\frac{1}{4}$ NW $\frac{1}{4}$ conveyed to J.L. Pope to W.S. Flesher by deed dated September 5, 1961, recorded in Volume 332, at page 277, Deed Records of Klamath County, Oregon, as follows: Beginning at a point on the North line of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 33, Twp. 40 South, Range 11 E.W.M., 870 feet East of the Northwest corner of said quarter section; thence Southwesterly in a direct line to a point on the South line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$, 450 feet East of the Southwest corner thereof; thence East 570 feet, more or less, along the South line of said quarter section to the Westerly line of a dirt road along the irrigation ditch; thence Northeasterly following the Westerly line of said dirt road to its intersection with the North line of said quarter section, said point of intersection being 50 feet West of Northeast corner of SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 33; thence West to the point of beginning.

ALL IN TWP. 40 SOUTH, RANGE 11 E.W.M.

In Section 4: Lot 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$);

SE $\frac{1}{4}$ NE $\frac{1}{4}$, Less approximately 6 acres conveyed by deed dated September 5, 1961, recorded in Volume 332, page 286 to V.L. Pope, Deed Records of Klamath County, Oregon, as follows: Beginning on the East and West center line of Section 4, Twp. 40 South, Range 11 E.W.M., at a point 640 feet East of the Southwest corner of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section; thence West 640 feet; thence North 500 feet; thence East 360 feet to the irrigation ditch; thence Southeasterly in a straight line, along the irrigation ditch to the point of beginning.

Easement, including the terms and provisions thereof from J. Randall Pope and Virginia Lee Pope, husband and wife, to William S. Flesher and Ann E. Flesher, husband and wife, recorded February 8, 1963, in Deed Volume 343, page 131, Deed Records of Klamath County, Oregon, described as follows: A strip of land 30 feet in width, parallel and adjacent to the Westerly boundary of the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Twp. 41 South, Range 11 E.W.M. and extending from the Southwest corner of said SE $\frac{1}{4}$ NE $\frac{1}{4}$ 500 feet North, more or less, to the property line of grantees.

ALL IN TWP. 41 SOUTH, RANGE 11 E.W.M.

PARCEL II:

In Section 28: SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$; SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

In Section 29: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$

ALL IN TWP. 40 SOUTH, RANGE 11 E.W.M.

secured by this mortgage shall not exceed in the aggregate at any time the sum of \$ 150,000.00, exclusive of accrued interest and of advances made in accordance with the covenants of this mortgage to protect collateral.

All present and future indebtedness secured by this mortgage shall bear interest at the rate specified in the note(s) evidencing such indebtedness, provided, however, that if such rate or rates are thereafter increased or decreased by Mortgagee, all of the indebtedness secured hereby shall bear such increased or decreased rate of interest from the effective date thereof.

The continuing validity and priority of this mortgage as security for future loans or advances shall not be impaired by the fact that at certain times hereafter there may exist no outstanding indebtedness from Mortgagor to Mortgagee or no commitment to make loans or advances.

MORTGAGORS COVENANT AND AGREE:

That they are lawfully seized of said premises in fee simple, have good right and lawful authority to convey and mortgage the same, and that said premises are free from encumbrances except as stated above; and each of the Mortgagors will warrant and defend the same forever against the lawful claims and demands of all persons whomsoever except as stated above, hereby relinquishing all dower and homestead rights in the premises; and these covenants shall not be extinguished by any foreclosure hereof, but shall run with the land;

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together with all the tenements, hereditaments, rights, privileges, appurtenances, and fixtures, including all irrigating and watering apparatus, now or hereafter belonging to, located on, or used in connection with the above described premises, and together with all waters and water rights of every kind and description and however evidenced, and all ditches or other conduits and rights of way thereof, appurtenant to said premises or used in connection therewith; and together with all range and grazing rights (including rights under the Taylor Grazing Act and Federal Forest Grazing privileges), now or hereafter issued in connection with or appurtenant to the said real property; and the mortgagors covenant that they will comply with all rules, regulations and laws pertaining thereto and will in good faith endeavor to keep the same in good standing and will execute all waivers and other documents required to give effect to these covenants, and that they will not sell, transfer, assign or otherwise dispose of said rights or privileges without the prior written consent of the mortgagee.

SUBJECT TO-----PRIOR LIEN HELD BY THE FEDERAL LAND BANK ASSOCIATION IN
THE APPROXIMATE AMOUNT OF \$127,105.00-----

This conveyance is intended as a mortgage to secure the performance of the covenants and agreements hereinafter contained and the payment of the following described promissory note(s) made by one or more of the Mortgagors (unless otherwise indicated) to the order of the Mortgagee, together with interest as hereinafter provided and together with all renewals or extensions thereof:

MATURITY DATE
April 5, 1978
April 5, 1980

DATE OF NOTE
March 24, 1977
April 9, 1974

AMOUNT OF NOTE
\$106,002.00
17,000.00

Also this mortgage is intended to secure all future loans or advances made or contracted within a period of FIVE (5) YEARS from and after the date of recording of this mortgage, *provided, however*, that the maximum amount of all indebtedness to be secured by this mortgage shall not exceed in the aggregate at any time the sum of \$ 150,000.00, exclusive of accrued interest and of advances made in accordance with the covenants of this mortgage to protect collateral.

All present and future indebtedness secured by this mortgage shall bear interest at the rate specified in the note(s) evidencing such indebtedness, *provided, however*, that if such rate or rates are thereafter increased or decreased by Mortgagee, all of the indebtedness secured hereby shall bear such increased or decreased rate of interest from the effective date thereof.

The continuing validity and priority of this mortgage as security for future loans or advances shall not be impaired by the fact that at certain times hereafter there may exist no outstanding indebtedness from Mortgagor to Mortgagee or no commitment to make loans or advances.

MORTGAGORS COVENANT AND AGREE:

That they are lawfully seized of said premises in fee simple, have good right and lawful authority to convey and mortgage the same, and that said premises are free from encumbrances except as stated above; and each of the Mortgagors will warrant and defend the same forever against the lawful claims and demands of all persons whomsoever except as stated above, hereby relinquishing all dower and homestead rights in the premises; and these covenants shall not be extinguished by any foreclosure hereof, but shall run with the land;

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To pay when due all debts and money secured hereby;

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To keep the buildings and other improvements now or hereafter existing on said premises in good repair and not to remove or demolish or permit the removal or demolition of any thereof; not to commit or suffer waste of any kind upon said premises; not to use or permit the use of said premises for any unlawful or objectionable purpose; and to do all acts and things necessary to preserve all water rights now or hereafter appurtenant to or used in connection with said premises;

To pay when due all taxes and assessments upon said premises; and to suffer no other lien or encumbrance prior to the lien of this mortgage to exist at any time against said premises, except as stated above;

To keep all buildings insured against loss or damage by fire in manner and form and in such company or companies and in such amount as shall be satisfactory to the Mortgagee; to pay when due all premiums and charges on all such insurance; to deposit with the Mortgagee, upon request, all insurance policies affecting the mortgaged premises, all of which said insurance shall be made payable, in case of loss, to the Mortgagee, with a mortgagee clause satisfactory to the Mortgagee;

To keep in good standing and free from delinquencies all obligations under any mortgage or other lien which is prior to this mortgage.

Should the Mortgagors be or become in default in any of the covenants or agreements herein contained, then the Mortgagee may, at its option, perform the same in whole or in part, and all expenditures made by the Mortgagee in so doing shall bear interest at the rate borne by the principal debt hereby secured, and shall be immediately repayable by the Mortgagors without demand, and, together with interest and costs accruing thereon, shall be secured by this mortgage.

Time is material and of the essence hereof; and in case of breach of any of the covenants or agreements hereof, or if default be made in the payment of any of the sums hereby secured, then, in any such case, all indebtedness hereby secured shall, at the election of the Mortgagee, become immediately due without notice, and this mortgage may be foreclosed; but the failure of the Mortgagee, to exercise such option in any one or more instances shall not be considered as a waiver or relinquishment of the right to exercise such option upon or during the continuance of the same or any other default.

In case of any suit to foreclose this mortgage or to collect any charge growing out of the debt hereby secured, or of any suit which the Mortgagee may deem it necessary to prosecute or defend to effect or protect the lien hereof, the Mortgagors agree to pay a reasonable sum as attorney's fees and all costs and legal expenses in connection with said suit, and further agree to pay the reasonable costs of searching the records and abstracting or insuring the title, and such sums and costs and expenses shall be secured hereby and be included in the decree of foreclosure.

Upon or during the continuance of any default hereunder, the Mortgagee shall have the right forthwith to enter into and upon the mortgaged premises and take possession thereof, except under circumstances where such taking is expressly prohibited by law, and collect the rents, issues and profits thereof, and apply the same, less reasonable costs of collection, upon the indebtedness hereby secured; and the Mortgagee shall have the right to the appointment of a receiver to collect the rents, issues and profits of the mortgaged premises and/or to manage the property during the pendency of legal proceedings. The rents, issues and profits of said premises after default shall accrue to Mortgagee's benefit and are hereby assigned and mortgaged to Mortgagee as additional security for the indebtedness herein described.

All rights and remedies conferred on Mortgagee by this mortgage are cumulative and additional to any and all other rights and remedies conferred by law, and are not exclusive. If any provision of this mortgage be found invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof; and the mortgage shall be construed as though the invalid or unenforceable provision had been omitted.

The covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, The Mortgagors have hereunto set their hands the day and year first above written.

x *William E. Hester*
x *Ann E. Hester*

State of Oregon, } ss.
County of Klamath }
I hereby certify that the within instrument was
received and filed for record on the 13th
day of APRIL, 1977, at 8:57
o'clock A. M. and recorded on Page 6162
in Book M 77 Records of MORTGAGES
of said County.

WM. D. MILNE, County Clerk

By *Hazel Drake* Deputy

Fee \$ 12.00

*Out: Klamath Basal Co.
00124 148
City*

ACKNOWLEDGMENT.
ACKNOWLEDGEMENT

STATE OF *Oregon*
County of *Klamath*
ON the 4th day of April, 1977
before me, the undersigned, a Notary Public for said County, personally appeared:

William E. Hester
Ann E. Hester

They acknowledged to me that they executed the foregoing instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this 10th day of April, 1977.

Daryl Childers
Notary Public for Oregon
My Commission Expires 10-11-78

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