

Connecticut Mutual

LIFE INSURANCE COMPANY

Established in 1846

Hartford, Connecticut

MORTGAGE

AND

SECURITY AGREEMENT

This Indenture, made this 23rd day of December, 1977, between
JOHN M. MOSBY and MARILYN J. MOSBY, husband and wife,

hereinafter called the Mortgagor, whether one or more than one, and 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 MILLION TWO HUNDRED THOUSAND AND NO/100

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

Township 31 South, Range 8 East of the Willamette Meridian:

- Section 5: SW $\frac{1}{4}$
- Section 7: NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Lots 1 and 2, But Excepting from said Lots 1 and 2 the portion thereof lying West of a line parallel to and 50 feet Easterly from the located center line of the Southern Pacific Company right of way.
- Section 15: SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 17: N $\frac{1}{2}$, SW $\frac{1}{4}$
- Section 20: All
- Section 21: S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$
- Section 28: W $\frac{1}{2}$
- Section 29: All
- Section 30: E $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$
- Section 31: E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ of Lot 1, E $\frac{1}{2}$ E $\frac{1}{2}$ of Lot 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$
- Section 32: All
- Section 33: S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$
- Section 34: S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$

Township 32 South, Range 8 East of the Willamette Meridian:

- Section 4: Lots 3 and 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$
- Section 5: Lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, those portions of Lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ which lies Southerly and Easterly from the center line or thread of Williamson River; W $\frac{1}{2}$ SE $\frac{1}{4}$
- Section 6: Lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, Lot 3, Lot 4 (But Excepting from said Lot 4 a parcel 417.42 feet by 208.71 feet described as Parcel 2 in Deed Book 331, page 173), S $\frac{1}{2}$ NW $\frac{1}{4}$, Lots 6 and 7; that part of the E $\frac{1}{2}$ SE $\frac{1}{4}$ lying Southerly and Easterly of the center line or thread of Williamson River.
- Section 8: SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$

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.

WELLS #1 and #2 WATER RIGHT CERTIFICATES, and PUMPING EQUIPMENT:
See Exhibit "A" attached hereto and made a part hereof.

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 MILLION TWO HUNDRED THOUSAND

AND NO/100 Dollars (\$1,200,000.00) executed by the Mortgagor
and payable to the Mortgagee in installments, the last of said installments being due January 1, 19 93

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% 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 Mortgagor 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 ~~10%~~ 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:
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.

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11. 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.
12. 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. Mortgagor further covenants and agrees to comply with all federal, state and local laws and regulations with regard to the protection of the environment, including, without limitation, both Federal and State Air and Water Quality Standards and Noise Abatement Regulations and local zoning ordinances.

15. - 21. See Exhibit "B" attached hereto and made a part hereof.

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.

Witnessed:

John M. Mosby (Seal)
JOHN M. MOSBY
Marilyn J. Mosby (Seal)
MARILYN J. MOSBY

STATE OF OREGON

COUNTY OF

STATE OF CALIFORNIA

COUNTY OF Santa Barbara

On December 23, 1977

before me, the undersigned, a Notary Public in and for said State, personally appeared John M. Mosby and Marilyn J. Mosby

known to me to be the person(s) whose name(s) are

subscribed to the within instrument and acknowledged to me

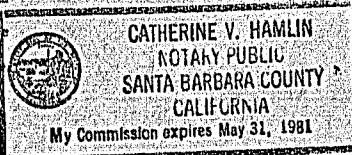
that both executed the same

WITNESS my hand and official seal.

Signature *Catherine V. Hamlin*

Catherine V. Hamlin

Name (Typed or Printed)



(This area for official notarial seal)

EXHIBIT "A"Water Right certificates recorded in State of Oregon, as follows:

Volume 27	Page 34992
Volume 27	Page 34994
Volume 27	Page 34993
Volume 25	Page 33522
Volume 25	Page 33422
Volume 25	Page 33523
Volume 23	Page 31364

WELL #1 Permit G-2303WELL #2 Permit G-2243Pumping Equipment

75 H. P. Electric Holloshaft Turbine Pump and Motor, Serial No. 3472960

75 H. P. Electric Holloshaft Turbine Pump and Motor, Serial No. 1252517

25 H. P. Electric Holloshaft Turbine Pump and Motor, Serial No. 1299938

EXHIBIT "B"

15. The real property hereinabove described is subject to the lien of the following described Mortgage (hereinafter referred to as the "Senior Mortgage" securing a certain note dated September 1, 1969 in the face amount of \$210,000 (hereinafter referred to as "Senior Note").

A Mortgage given by Investors Acquisition Corporation and Bert T. Swanston and Suzanne E. Swanston to Walter J. Lucas and Alice J. Lucas in the principal amount of \$210,000 dated December 20, 1969 and recorded December 31, 1969 in Vol. M-69 pages 10850-10856 in the Official Records of Klamath County, Oregon, with an outstanding loan balance of \$184,350.

16. Mortgagor represents and warrants that there presently exists no default or any event, which with the passage of time or giving of notice or both, would constitute a default under the Senior Mortgage and Senior Note, and that the information set forth above with respect to the Senior Mortgage and Senior Note is accurate in every respect.

17. Mortgagor covenants and agrees that they will not make payments directly to the Senior Mortgagee or request any release, partial release of or amendment to the Senior Mortgage without first obtaining the written consent of Mortgagee and that in the event that any additional indebtedness is incurred under the Senior Mortgage or any modification of the Senior Mortgage is made without prior written approval of the Mortgagee or in the event that Mortgagee defaults in its obligations under the Senior Mortgage as provided herein, then in any of such event the Mortgagee may, without limiting any other rights to which it is entitled hereunder, under the Note secured hereby or by law, accelerate all or any part of the indebtedness secured hereby and thereafter enforce collection thereof as herein provided or in any other manner provided by law.

18. Mortgagor covenants and agrees to comply with all the terms and provisions of said Senior Mortgage (except the requirement to make the payments of principal and interest thereon) and upon compliance by Mortgagor with the terms and provisions contained in said Senior Mortgage and contained herein, Mortgagee shall pay the installments of principal and interest from time to time due under the Senior Note in accordance with its terms. Nothing contained herein shall require Mortgagee to perform the terms or provisions contained in said Senior Mortgage or Senior Note required to be performed by the Mortgagor, its successors and assigns, except the payment of installments of principal and interest but only in accordance with the terms and provisions hereof. If the Mortgagor shall default in the performance of any term or provision contained in this Mortgage, the Mortgagee shall not be obligated to pay any principal or interest under the Senior Note.

19. Mortgagor covenants and agrees that, to the extent the Mortgagee pays any installments of principal or interest or any other sums due under the Senior Mortgage or Note, the Mortgagee hereunder shall become entitled to a lien on the property encumbered by the Senior Mortgage equal in rank and priority to the Senior Mortgage, and in addition, to the extent necessary to make effective such rank and priority; (1) said Mortgagee shall become subrogated to receive and enjoy all the rights, liens, powers and privileges granted to the Senior Mortgagee by the Senior Mortgage and (2) the Senior Mortgage shall remain in existence for the benefit of and to further secure the debt and other sums secured, or that hereafter become secured hereunder. Contemporaneously herewith the Mortgagee and Mortgagor have executed a subrogation agreement to which reference is hereby made for the terms thereof.

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20. In case of default hereunder in addition to any other rights and remedies available to the Mortgagee hereunder, the Mortgagee may, but need not, make any payments or perform any act herein required of Mortgagor in any form and manner deemed expedient and may, but need not, make full or partial payment of principal or interest on the Senior Note and Senior Mortgage, other prior encumbrances, if any, and purchase, discharge, compromise or settle the Senior Mortgage, any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting said property or to contest any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including attorneys' fees and any other money advanced by said Mortgagee to protect the property herein described and the lien hereof shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the rate of ten percent (10%) per annum. Inaction of the Mortgagee under this Mortgage shall never be considered as a waiver of any right accruing to it on account of any default on the part of the Mortgagor.

21. This Mortgage is given and accepted upon the express provision that should the Mortgagor sell, divest, transfer, relinquish or lose their right, title or interest in the loan security, or any portion thereof during the term of this Mortgage, either voluntarily or by operation of law, without the written consent of the Mortgagee, then such Mortgagee, 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.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County Title Co.

this 29th day of December A. D. 1977 at 2:30 clock P.M., and

fully recorded in Vol. N77 of Mortgages on Page 25057

Wm D. MILNE, County Clerk

By Bernetha H. Helock

Fee \$21.00

Rel:
Deschutes County Title
P.O. Box 303
Bend, OR 97701
Attention Phyllis Weber