

MT 7619

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The Connecticut Mutual

LIFE INSURANCE COMPANY

Established in 1846

Hartford, Connecticut

MORTGAGE

AND SECURITY AGREEMENT

This Indenture, made this 3rd day of April, 1979, between
ELIZABETH E. ROBERTSON

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 EIGHTY THOUSAND AND

NO/100 Dollars (\$180,000.00.....)

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:

The real property as described on pages 2 and 3 of this Mortgage and Security Agreement.

This Mortgage and Security Agreement 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 terms of this Mortgage and Security Agreement, either voluntarily or by operation of law, without the prior written consent of the Mortgagee, (which consent will not be unreasonably withheld), then the 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.

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.

Together with a security interest which is hereby granted by Mortgagor to Mortgagee in and to the following irrigation equipment now owned or hereafter acquired by Mortgagor and located on the above described real estate, including, but not limited to, the Collateral described on Exhibit "A" attached hereto and made a part hereof, and further including all additions, accessions, replacements, improvements, repairs and substitutions to said Collateral and the proceeds thereof. The foregoing grant of the security interest is intended to be within the meaning of the Uniform Commercial Code as adopted by the State of Oregon, and Mortgagor agrees to execute and deliver to Mortgagee as Mortgagor may be directed by the Mortgagee such financing statements and further assurances as Mortgagee may deem necessary to perfect and preserve the lien hereof on the Collateral described herein or intended to be subject hereto, and Mortgagor authorizes such statements and assurances and the Mortgage and Security Agreement to be recorded and re-recorded, filed and re-filed at such places and times as may be required by law to so create, perfect, and preserve the lien hereof against said Collateral.

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Parcel 1

The Southwest quarter of the Southeast quarter and the Southwest quarter of Section 20, Township 39, South, Range 11 East of the Willamette Meridian, Excepting therefrom the Northly 580 feet of the Northeast quarter of the Southwest quarter conveyed to Pacific Gas Transmission Company in deed 327-471 and also Excepting therefrom that portion lying within the boundaries of the Malin-Bonanza Road.

Parcel 2

The West half of the East half, the East half of the West half, and the Southeast quarter of the Southeast quarter, Section 29, Township 39 South, Range 11 East of the Willamette Meridian, Excepting therefrom;

A tract of land situated in the E $\frac{1}{2}$ of the W $\frac{1}{2}$ of Section 29, Township 39 South Range 11 East to the Willamette Meridian in Klamath County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron pin on the West 1/16 line of said Section 29 from which the West 1/16 corner, also a 5/8" iron pin, of said Section 29 bears North 00° 17' 46" East 1058.93 feet;

thence South 89° 42' 14" East 60.00 feet to a 5/8" iron pin;

thence South 35° 21' 30" East 486.98 feet to a 5/8" iron pin;

thence South 54° 16' 48" East 220.90 feet to a 5/8" iron pin;

thence South 41° 33' 38" East 300.00 feet to a 1/2" iron pin;

thence continuing South 41° 33' 38" East 128.54 feet to a 5/8" iron pin;

thence South 16° 39' 40" East 1965.11 feet to a 5/8" iron pin;

thence South 73° 20' 20" West 1445.82 feet to a 5/8" iron pin on the West 1/16 line of said Section 29;

thence along said West 1/16 line North 00° 17' 46" East 3144.27 feet to the point of beginning.

Bearings based on Survey #2579 as filed in the office of the County Surveyor in Klamath County, Oregon.

Parcel 3

The North half of the Northeast quarter, the Southeast quarter of the Northeast quarter, Lot 5 and lot 12, Section 32, Township 39 South, Range 11 East of the Willamette Meridian.

RESERVING rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

ALSO EXCEPTING and reserving, however to the United States, all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same, pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat. 862).

Parcel 4

The West half of the Northeast quarter, the Northwest quarter, and the South half of Section 33, Township 39 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

RESERVING rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

ALSO EXCEPTING and reserving, however to the United States, all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same, pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat. 862).

Parcel 5

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Lots 1, 2, 3, and 4 and the South half of the Northwest quarter, Section 4, Township 40 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon.

RESERVING rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States.

ALSO EXCEPTING and reserving, however to the United States, all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same, pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat. 862).

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:

Those State of Oregon Water Rights evidenced by Certificates of Water Rights recorded in Volume 26, Pages 34770, 34771, 34773, and 34774.

Also 205.8 acres of irrigation water rights from Horsefly Irrigation District.

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 EIGHTY THOUSAND AND NO/100-----

----- Dollars (\$180,000.00.), executed by the Mortgagor

and payable to the Mortgagee in installments, the last of said installments being due January 15, 1995.

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 8% per annum~~ 10.25% 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 8% 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:

United States Department of Interior, Bureau of Land Management Grazing Lease
No. 360174-32 on the following described lands:

T 39 S, R 11 E, WM

- Sec. 19: SE1/4SE1/4
Sec. 29: SW1/4NW1/4, W1/2SW1/4, E1/2NE1/4, NE1/4SE1/4
Sec. 30: E1/2E1/2
Sec. 31: N1/2NE1/4, NE1/4NW1/4
Sec. 32: Lots 1, 2, 3, 4, 6, 7, 8, 11, SW1/4NE1/4

T 40 S, R 12 E, WM

- Sec. 5: Lots 1 & 2, S1/2NE1/4

6-8-45

- 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.

Witnessed:

... (Seal)

STATE OF OREGON,

SS

Before me:

DONNA J. MERZI
NOTARY PUBLIC - OREGON
My Commission Expires **4/5/88**
(Title of Officer)

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EXHIBIT "A"

IRRIGATION EQUIPMENT INVENTORY

1 General Electric 20 HP electric motor
Model No. 5K326F38

Cornell Pump - Model No. 2.5W2C-2
Serial No. 1967A

400 ft. 10" portable aluminum main line

400 ft. 5" portable aluminum main line

1,280 ft. 4" portable aluminum hand line with risers

2,720 ft. 3" portable aluminum hand line with risers

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.

this 4th day of May A. D. 19 79 at 11:55 clock A.M., on

only recorded in Vol. 479, of Mortgages on Page 10167

W. D. MILNE, County Clerk

Fee \$21.00

By Bernard J. Hetch

After recording mail to:
Key Escrow Co.
3975 River Rd N.
Salem, Or 97303