

73369

MTC 17532-L  
MORTGAGE

Vol. 1481 Page 6117

**THIS MORTGAGE**, Made this 10<sup>th</sup> day of April, 1987, JOHN L. POUTOUS, SR. and ARLETTE J. POUTOUS, husband and wife, and the POUTOUS FAMILY PARTNERSHIP, Mortgagor, to BRACON CORPORATION, a California corporation, Mortgagee,

**WITNESSETH**, That said mortgagor, in consideration of TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00), to him paid by said mortgagee does hereby grant, bargain, sell and convey unto said mortgagee, his heirs, executors, administrators and assigns, that certain real property situated in Klamath County, State of Oregon, bounded and described as follows, to-wit:

See attached Exhibit "A" - Legal Description

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and which may hereafter thereto belong 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, his 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:

See attached Exhibit "B" - Promissory Note

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: April 1, 1992.

All sums secured hereby shall, at the option of mortgagee, immediately become due and payable, without notice to mortgagor, on any sale or other transfer, whether voluntary or involuntary, of all or part of the property or any interest therein, unless expressly authorized by mortgagee in writing, save and except for sales or transfers between

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or among the obligors and provided that membership of the Poutous Family Partnership remains the same as it is constituted on the day this Mortgage is executed.

And said mortgagor covenants to and with the mortgagee, his heirs, executors, administrators and assigns, that he is lawfully seized in fee simple of said premises and has a valid, unencumbered title thereto, save and except for those certain Approved Exceptions set forth in Exhibit "C" attached hereto and made a part hereof, and will warrant and forever defend the same against all persons; that he will pay said note, principal and interest according to the terms thereof; that while any part of said note remains unpaid he 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 above described, when due and payable and before the same may become delinquent; that he 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 he will keep the buildings now or which hereafter may be erected on the said premises continuously insured against loss or damage by fire and such other hazards as the mortgagee may from time to time require, in an amount not less than the original principal sum of the note or obligation secured by this mortgage, in a company or companies acceptable to the mortgagee, with loss payable first to the mortgagee and then to the mortgagor as their respective interests may appear; all policies of insurance shall be delivered to the mortgagee as soon as insured. Now if the mortgagor shall fail for any reason to procure any such insurance and to deliver said policies to the mortgagee at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the mortgagee may procure the same at mortgagor's expense; that he will keep the buildings and improvements on said premises in good repair and will not commit or suffer any waste of said premises. At the request of the mortgagee, the mortgagor shall join with the mortgagee in executing one or more financing statements pursuant to the Uniform Commercial Code, in form satisfactory to the mortgagee, and will pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the mortgagee.

The mortgagor warrants that the proceeds of the loan represented by the above described note and this mortgage are primarily for mortgagor's personal, family, household or agricultural purposes

Now, therefore, if said mortgagor shall keep and perform the covenants herein contained and shall pay said note 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 payment of said note; 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 mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, the mortgagee may at his option do so, and any payment so made shall be added to and become a part of the debt secured by this mortgage, and shall bear interest at the same rate as said note without waiver, however, of any right arising to the mortgagee for breach of covenant. And this mortgage may be foreclosed for principal, interest and any sums paid by the mortgagee at any time while the mortgagor neglects to repay any sums so paid by the mortgagee. In the event of suit or action being instituted to foreclose this mortgage, the mortgagor agrees 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 plaintiff's attorney's fees in such suit or action, and if an appeal is taken from any judgment or decree entered therein, mortgagor further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal, all 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 mortgagor and of said mortgagee respectively.

In case suit or action is commenced to foreclose this 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.

In construing this mortgage, it is understood that the mortgagor or mortgagee may be more than one person; that where the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said mortgagor has hereunto set his hand the day and year first above written.

John L. Poutous Sr.  
JOHN L. POUTOUS, SR.

Arlette J. Poutous  
ARLETTE J. POUTOUS

POUTOUS FAMILY PARTNERSHIP

By John L. Poutous Sr.  
Its MANAGING PARTNER

(Attach Notarial Acknowledgment)

6121

STATE OF OREGON

COUNTY OF KLAMATH

} ss.

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 1987, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book \_\_\_\_\_ on page \_\_\_\_\_ or as file/reel number \_\_\_\_\_, Record of Deeds of said County.

Witness my hand and seal of County affixed.

Return:  
MTC

Recording Officer

By \_\_\_\_\_

FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

STATE OF OREGON,

County of Klamath

} ss.

BE IT REMEMBERED, That on this \_\_\_\_\_ 8th \_\_\_\_\_ day of \_\_\_\_\_ April, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named \_\_\_\_\_ John L. Poutous, Sr. for himself and as Managing Partner for the \_\_\_\_\_ Poutous Family Partnership \_\_\_\_\_ described in and who executed the within instrument and known to me to be the identical individual. \_\_\_\_\_ he executed the same freely and voluntarily.

acknowledged to me that \_\_\_\_\_ IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public for Oregon.  
7-13-89

My Commission expires \_\_\_\_\_

STATE OF CALIFORNIA

COUNTY OF

SAN DIEGO

} ss.

On

APRIL

9, 1987

said State, personally appeared

ARLETTE

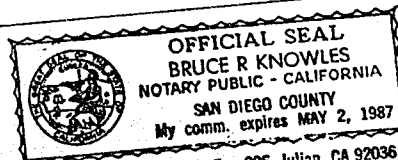
J. POUTOUS

known to me to be the person \_\_\_\_\_ whose name \_\_\_\_\_ subscribed to the within instrument and acknowledged to me that \_\_\_\_\_ SHE \_\_\_\_\_ executed the same.

WITNESS my hand and official seal.

Signature

Bruce R. Knowles



2724 B Street #5, P. O. Box 995, Julian, CA 92036

(This area for official notarial seal)

Name (Typed or Printed)

## DESCRIPTION SHEET

## PARCEL 1

A piece or parcel of land situate in Sections 11, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26 and 27, Township 34 South, Range 7 1/2 East of the Willamette Meridian, and more particularly described as follows: Beginning at a point at the intersection of the centerline of Seven Mile Canal as the same is now located and constructed, with the line of a division fence extended Southwesterly, from which point the Southeasterly corner of Section 1, Township 34 South, Range 6 East of the Willamette Meridian, as established by Norman D. Price, U.S. Cadastral Engineer, between October 31, 1930 and June 22, 1931 bears North 54 degrees 19 1/2' West 16,670.3 feet distant, and running from said point of beginning South 41 degrees 02 1/2' East along the said center line of the Seven Mile Canal, 12,811.0 feet, more or less, to a point in a line 150 feet distant at right angles Southerly from the center line of the old Lake Levee, as the same is now located and constructed; thence leaving said center line and following said parallel line North 50 degrees 28 1/2' East, 2,202.6 feet; thence North 88 degrees 32' East 1,158.1 feet; thence South 41' East 588.3 feet; East, 1,064.8 feet; thence South 45 degrees 41' East 664.1 feet; thence South 69 degrees 24' East 1,593.6 feet; thence North 81 degrees 17' East 203.5 feet; thence South 32 degrees 44' East 664.1 feet; thence South 61 degrees 23' East 251.2 feet; thence North 81 degrees 42' East 1,181.4 feet, more or less, to a point on the Westerly or right bank of Wood River; thence leaving said parallel line and running Northerly along the said Westerly bank of Wood River 19,000 feet, more or less, to a point at the intersection of said Westerly bank of Wood River, with the above mentioned division fence; thence South 61 degrees 40 1/2' West along said division fence 9,958 feet, more or less, to the said point of beginning.

## PARCEL 2

A piece or parcel of land situate in the NW 1/4 of Section 31, Township 34 South, Range 7 East of the Willamette Meridian, lying East of Wood River and being more particularly described as follows: Beginning at an iron pipe on the North line of Section 31, from which the brass cap monument marking the Northwest corner of said Section 31 bears North 88 degrees 51 3/4' West 789.8 feet distant and the brass cap monument marking the North Quarter corner of said Section 31 bears South 88 degrees 51 3/4' East 1,787.4 feet distant; thence South 38 degrees 23 3/4' East 548.6 feet to a point; thence along a 15 degrees 56 3/4' circular curve to the right (having a deflection angle of 55 degrees 26 1/2', a radius of 359.4 feet, and a long chord which bears South 10 degrees 40 1/2' East 334.3 feet) a distance of 347.6 feet; thence South 17 degrees 02 3/4' West 122.1 feet to a point; thence along an 18 degrees 52 3/4' circular curve to the left (having a

(continued)

EXHIBIT A

deflection angle of 40 degrees 26 1/2', a radius of 303.5 feet, and a long chord which bears South 3 degrees 10 1/2' East 209.8 feet) a distance of 214.2 feet; thence South 23 degrees 23 3/4' East 419.5 feet to a point; thence South 14 degrees 07 1/4' East 498.7 feet to a point; thence South 2 degrees 39 1/4' East 682.9 feet to an iron pipe on the South line of the NW1/4 of said Section 31; thence North 89 degrees 34 1/4' West along the South line of the NW1/4 of Section 31, 1,488.1 feet to a point on the West boundary of said Section 31; thence North along the West boundary of said Section 31, 2,640.0 feet to the brass cap monument marking the Northwest corner of said Section 31; thence South 88 degrees 51 3/4' East along the North boundary of Section 31, 789.8 feet, more or less, to the point of beginning.

ALSO a strip of land 90.0 feet in width along the Northerly side of the Southerly boundary of the NW1/4 of Section 31 lying between the above-described parcel and the Westerly right of way line of Highway No. 422.

PARCEL 3

Lots 2, 3, 5 and 6, Section 36, Township 34 South, Range 7 1/2 East of the Willamette Meridian, Klamath County, Oregon.

PROMISSORY NOTE

6124

Date: \_\_\_\_\_, 1987

Loan # \_\_\_\_\_  
\$200,000.00

FOR VALUE RECEIVED, the undersigned promises to pay to BRACON CORPORATION, a California corporation, or order at \_\_\_\_\_, California, or at such other place as the holder hereof may from time to time in writing designate, in lawful money of the United States of America, the principal sum of TWO HUNDRED THOUSAND AND NO/100 DOLLARS (\$200,000.00) together with interest on the unpaid principal balance outstanding under this Note at the rate of nine percent (9%) per annum.

Interest shall be computed on the basis of a 360 day year and actual days elapsed.

The Note shall be payable as follows: Principal, together with accrued interest thereon, shall be payable in semi-annual installments commencing October 1, 1987; each installment in an amount of not less than TEN THOUSAND ONE HUNDRED TWENTY-TWO AND NO/100 DOLLARS (\$10,122.00) until April 1, 1992, when the remaining balance, together with accrued interest thereon shall be paid in full.

This Note is secured by a Mortgage which provides "All sums secured hereby shall, at the option of Mortgagee, immediately become due and payable, without notice to Mortgagor, on any sale or other transfer, whether voluntary or involuntary, of all or part of the Property or any interest therein, unless expressly authorized by Mortgagee in writing, save and except for sales or transfers between or among the Obligors and provided that membership of the Poutous Family Partnership remains the same as it is constituted on the day this Note is executed."

BRACON CORPORATION shall have the absolute right to (a) sell participations in this Note and to transfer and assign BRACON'S interest in said Note and the security therefor and (b) disclose to any participant or prospective participant or purchaser any information or other data or material in BRACON'S possession relating to Obligors without the

EXHIBIT B



consent of or notice to Obligors. Should BRACON elect to sell the Note, or an interest in the Note, as described in this paragraph, BRACON shall first offer Obligors the opportunity to negotiate the purchase of said Note for a period of ten (10) business days.

Time is of the essence hereof. The occurrence of any of the following events ("events of default") shall, at the option of the holder hereof, make all sums of principal and interest on this Note immediately due and payable without notice of default, presentment, demand for payment, protest, notice of protest, notice of nonpayment or dishonor, or other notices or demands of any kind whatsoever, all of which are hereby expressly waived by the undersigned: (a) default in the payment when due of any installment or amount of principal or interest on this Note; (b) breach of any representation, warranty or covenant contained in, or default under, the sales agreement or mortgage, securing or executed in favor of the holder hereof in connection with this Note; (c) filing by or against any of the undersigned or a petition in bankruptcy or for relief under any bankruptcy or similar laws or for a receiver for such person or any property of such person; (d) default in any obligation secured by a lien on any property securing this Note, provided in the event of an involuntary petition in bankruptcy such petition is not withdrawn or removed after hearing within 30 days of the date of filing thereof; or (e) insolvency or assignment for benefit of creditors, of any of the undersigned.

Until such time as the Note is paid in full, JOHN L. POUTOUS, SR. and ARLETTE J. POUTOUS, husband and wife, and the POUTOUS FAMILY PARTNERSHIP, collectively referred to as "Obligors", agree to provide the holder hereof or holder's participant(s) or prospective participant(s) or purchaser(s), annually prepared financial information, including but not limited to balance sheets, profit and loss statements and income tax returns, requested by the holder hereof, which information shall fully inform the holder hereof of Obligors' annual financial condition.

The undersigned agrees to pay all costs and expenses of collection, including without limitation reasonable attorneys' fees, whether or not suit is filed hereon. Where the

context permits, the plural term shall include the singular, and vice versa. This Note shall be governed by Oregon law. Where more than one person signs this Note, their obligations hereunder shall be joint and several.

\_\_\_\_\_  
JOHN L. POUTOUS, SR.

\_\_\_\_\_  
ARLETTE J. POUTOUS

POUTOUS FAMILY PARTNERSHIP

By \_\_\_\_\_

Its \_\_\_\_\_

## APPROVED EXCEPTIONS

1. The premises herein described are within and subject to the statutory powers, including the power of assessment, of Meadows Drainage District.
2. Rights of the public and of governmental bodies, if any, in and to that portion of the premises herein described lying below the highwater mark of Agency Lake or Wood River.
3. Agreement, including the terms and provisions thereof,  
Dated: October 26, 1921  
Recorded: August 14, 1922  
Volume: 59, page 59, Deed Records of Klamath County, Oregon  
Between: California Oregon Power Company and Fort Klamath Meadows Company  
For: Claims for damages for raising and lower the water of the lake.  
(Affects Parcel 1)
4. Agreement, including the terms and provisions thereof, between Dennis Crowley, et al, and The California Oregon Power Company, dated December 6, 1923 and recorded June 18, 1924 in Book 64 at page 243, Deed Records of Klamath County, Oregon, for raising and lowering the water of Upper Klamath Lake.  
(Affects Parcel 2)
5. Grant of Right and Easement, including the terms and provisions thereof,  
Dated: December 13, 1928  
Recorded: January 10, 1929  
Volume: 85, page 123 and 125, Deed Records of Klamath County, Oregon  
Granted To: The California Oregon Power Company  
For: Raising and lowering the water of Upper Klamath Lake  
(Affects Parcel 1)
6. Reservations and restrictions, including the terms and provisions thereof, contained in Deed from Fort Klamath Meadows Company to George Harlow and Wynne Harlow, recorded September 2, 1942 in Book 150 at page 585, Deed Records of Klamath County, Oregon.  
(Affects Parcel 1)
7. Reservations and restrictions, including the terms and provisions thereof, contained in Deed from George and Wynne Harlowe to Fort Klamath Meadows Company, recorded March 13, 1945 in Book 174 at page 155, Deed Records of Klamath County, Oregon.  
(Affects Parcel 1)
8. Reservations and restrictions, including the terms and provisions thereof, contained in Deed from Fort Klamath Meadows Company to W. P. Hooper, recorded March 13, 1945 in Book 174 at page 157, Deed Records of Klamath County, Oregon.  
(Affects Parcel 1)
9. Reservations and restrictions, including the terms and provisions thereof, contained in Deed from Meadows Drainage District to W. P. Hooper, recorded November 27, 1945 in Book 182 at page 307, Deed Records of Klamath County, Oregon. (This instrument is an easement for ditches, canals and the like; irrigation and drainage structures and a pumping plant are reserved.)  
(Affects Parcel 1)

10. An easement, including the terms and provisions thereof,  
 Dated: November 19, 1951  
 Recorded: November 21, 1951  
 Volume: 251, page 179, Deed Records of Klamath County, Oregon  
 In favor of: The California Oregon Power Company  
 For: 10 foot wide pole line across Lot 1, Section 13
11. Restrictions contained in Land Status Report, recorded September 19, 1960 in Book 324 at  
 page 183, Deed Records of Klamath County, Oregon.  
 (Affects Parcel 2)
12. An easement, created by instrument, including the terms and provisions thereof,  
 Dated: November 7, 1969  
 Recorded: November 10, 1969  
 Volume: M69, page 9436, Microfilm Records of Klamath County, Oregon  
 In favor of: Klamath County  
 For: An easement of ingress and egress by water over a canal  
 (Affects Parcel 2)
13. Mineral Special Warranty Deed, including the terms and provisions thereof,  
 Dated: December 11, 1978  
 Recorded: December 24, 1978  
 Volume: M78, page 29013, Microfilm Records of Klamath County, Oregon  
 Amended by instrument  
 Recorded: February 28, 1979  
 Volume: M79, page 4442, Microfilm Records of Klamath County, Oregon  
 From: Cranco  
 To: Unlimited Resources, Inc., for an undivided 50% interest
14. An easement, including the terms and provisions thereof,  
 Dated: June 24, 1981  
 Recorded: July 18, 1981  
 Volume: M81, page 12586, Microfilm Records of Klamath County, Oregon  
 In favor of: Pacific Power and Light Company  
 For: 10 foot wide underground electrical circuit  
 Affects: Across E1/2 Section 27, W1/2 Section 26 and E1/2 Section 34
15. An easement, including the terms and provisions thereof,  
 Dated: April 16, 1982  
 Recorded: July 11, 1982  
 Volume: M82, page 7359, Microfilm Records of Klamath County, Oregon  
 In favor of: Pacific Power and Light Company  
 For: 10 foot wide underground electrical facilities  
 Affects: E1/2 of Section 27, S1/2 Section 36, S1/2 Section 25, S1/2 Section 26 and S1/2 NW1/4  
 Section 31
16. An easement, created by instrument, including the terms and provisions thereof,  
 Dated: November 23, 1982  
 Recorded: December 14, 1983  
 Volume: M83, page 21304, Microfilm Records of Klamath County, Oregon  
 In favor of: The Federal Land Bank of Spokane  
 For: A 30 foot easement for ingress and egress  
 (Affects Parcel 2)

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Company  
 of April A.D., 19 87 at 10:58 o'clock A M., and duly recorded in Vol. 13th day  
 of Mortgages on Page 6117  
 By Evelyn Biehn, County Clerk

FEE \$49.00