

76045

AFFIDAVIT AFTER FORFEITURE
(ORS 93.930)STATE OF OREGON)
) ss:
County of Klamath)

Vol. 187 Page 10907

The undersigned (Affiant), being first duly sworn, under oath says:

Affiant is the Contract Seller.

On April 22, 1987, Seller gave Purchaser notice of default under the Contract entitled "Notice of Enforcement of Forfeiture Remedy After Default (ORS 93.905 to ORS 93.940)" (Notice) pursuant to ORS 93.915. A true copy of the Notice and proof of mailing is attached as Exhibit "1". The Default of the Purchaser under the terms of the Contract was not cured within the time period provided in the Notice and ORS 93.915 and the Contract has been forfeited.

In addition to the foregoing, the following are set forth:

1. Seller: LaVerne Haskins and Norma J. Haskins, husband and wife, Route 1, Box 799, Bonanza, Oregon 97623.
2. Purchaser: Louis Arata and Linda S. Arata, Route 1, Box 800, Bonanza, Oregon 97623, as having acquired an interest in the Real Property, as specified in ORS 93.905(4) which includes, without limiting the generality of the foregoing, the buyer described in the Contract.
3. Contract: The contract for transfer or conveyance of the Real Property set forth in the Notice.
4. Default: Failure to pay sums due under the terms of the Contract and real property taxes required under the Contract as set forth in the Notice.
5. Forfeiture Remedy: That set forth in the Notice.
6. Curing Default: Curing default as set forth in the Notice.
7. Real Property: The real property situate in Klamath County, Oregon, to-wit:

Township 38 South, Range 11 East of the Willamette Meridian:
Section 29: S $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{2}$, and S $\frac{1}{2}$ W $\frac{1}{2}$

Section 32: N $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ N $\frac{1}{2}$ W $\frac{1}{2}$, and W $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{2}$
SUBJECT TO:

1. Any real property taxes of Klamath County, Oregon for 1985-1986 which are now due but not yet paid.
2. Terms and conditions of special assessment as farm use and the right of Klamath County, Oregon, to additional taxes in the event said use should be changed, which obligations Buyer assumes and agrees to pay and perform.
3. Acreage and use limitations under provisions of United States Statutes and regulations issued thereunder.
4. Liens and assessments of Klamath Project and Horsefly Irrigation District, and regulations, easements, contacts, water and irrigation rights in connection therewith.
5. Any unpaid charges or assessments of Horsefly Irrigation District.
6. Reservations and restrictions contained in deed form from Ada Parsons Sparretorn, a widow to Henry O. Cox, John E. Cox and Charles E. Cox, dated June 9, 1936, and recorded June 11, 1936, in Volume 106 on Page 460, Deed Records of Klamath County, Oregon, as follows: "Saving and reserving unto grantor an undivided $\frac{1}{2}$ interest in all oil, gas and minerals on, in and under said lands, with the right at all times to enter into and upon the same to explore therefore and to bore wells and make excavations, and remove all oils and minerals found thereon and there, with rights of way for pipe lines, and less rights of way for roads.
7. Boundary line, Joint Use and Easements Agreement, including the terms provisions thereof, given by and between LaVerne Haskins and Norma Haskins, husband and wife, and Louis J. Arata and Linda S. Arata, husband and wife, dated April 19, 1979, and recorded April 19, 1979, in M-79, on Page 8800, Records of Klamath County, Oregon.
8. Easements and rights of way of record and apparent thereon.

8. Purpose: Upon recordation of this Affidavit, the Contract be extinguished and canceled and the Purchaser have no further right, title, or interest in and to the Real Property.

In construing this Affidavit pronouns shall be construed in accordance with the appropriate gender or neuter, as either singular or plural, as the context requires, and Exhibit "1" attached hereto is incorporated into this Affidavit as though fully set forth in this Affidavit where reference to such exhibit is made.

By: LaVerne Haskins
LaVerne Haskins

By: Norma J. Haskins
Norma J. Haskins

SUBSCRIBED AND SWORN to before me this

8 day of June, 1987

(SEAL)
NOTARY PUBLIC
FOR OREGON

NOTARY PUBLIC FOR OREGON

My Commission Expires:

6-1-89

AFTER RECORDING RETURN TO:
GIACOMINI, JONES & TROTMAN
Attorneys at Law
635 Main Street
Klamath Falls, Oregon 97601

10908

P 133 013 006

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL

(See Reverse)

PS Form 3800, Feb. 1982
Jenkins - Arata (P)
186448014

Sent to	LINDA S. ARATA
Street and No.	Route 1, Box 800
P.O., State and ZIP Code	Bonanza, OR 97623
Postage	\$ 38
Certified Fee	75
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to whom and Date Delivered	70
Return receipt showing to whom, Date, and Address of Delivery	
TOTAL Postage and Fees	\$ 184
Postmark of Date	

RECEIVED
FEB 21 1987
USPS

PS Form 3811, July 1983 447-645

SENDER: Complete items 1, 2, 3 and 4.

Put your address in the "RETURN TO" space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for service(s) requested.

1. ☐ Show to whom, date and address of delivery.
2. ☐ Restricted Delivery.

3. Article Addressed to:

Linda S. Arata
Route 1, box 800
Bonanza, OR 97623

4. Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail

Article Number

P 133 013 006

Always obtain signature of addressee or agent and
DATE DELIVERED.

5. Signature - Addressee

X *Linda S. Arata*

6. Signature - Agent

X

7. Date of Delivery

4/22/87

8. Addressee's Address (ONLY if requested and fee paid)

Exhibit "1"

NOTICE OF ENFORCEMENT OF FORFEITURE REMEDY AFTER DEFAULT (ORS 93.905 to ORS 93.940)

TO: LINDA S. ARATA
Route 1, Box 800
Bonanza, OR 97623

10909

You, and each of you, as purchaser of the Real Property, described below in this Notice, are hereby given notice pursuant to ORS 93.915, of intent of the Seller under the Contract to enforce the Forfeiture Remedy contained in the Contract for default of the Contract unless you, within sixty (60) days from the date of receipt of this Notice (which is hereby given by First Class and Certified Mail with Return Receipt Requested), cure the Default. If you do not cure the Default by the date specified in this Notice, the Seller will enforce the Forfeiture Remedy contained in the Contract and record the Affidavit.

For the purposes of the Notice the following is set forth:

1. Seller: LaVerne Haskins and Norma J. Haskins, husband and wife, Route 1, Box 799, Bonanza, Oregon 97623.
2. Purchaser: You, and each of you, as having acquired an interest in the Real Property, as specified in ORS 93.905(4) which includes, without limiting the generality of the foregoing, the buyer described in the Contract.
3. Contract: That certain contract for transfer or conveyance of the Real Property dated January 7, 1986, recorded February 10, 1986, in Vol. M-86, Page 2480, Microfilm Records of Klamath County, Oregon, wherein the Sellers are LaVerne Haskins and Norma J. Haskins, husband and wife and Louis Arata and Linda S. Arata, husband and wife, are the Purchasers, affecting the following described Real Property situate in Klamath County, Oregon, to-wit:

Township 38 South, Range 11 East of the Willamette Meridian:
Section 29: S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$
Section 32: N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ NE $\frac{1}{4}$

SUBJECT TO:

1. Any real property taxes of Klamath County, Oregon for 1985-1986 which are now due but not yet paid.
2. Terms and conditions of special assessment as farm use and the right of Klamath County, Oregon, to additional taxes in the event said use should be changed, which obligations Buyer assumes and agrees to pay and perform.
3. Acreage and use limitations under provisions of United States Statutes and regulations issued thereunder.
4. Liens and assessments of Klamath Project and Horsefly Irrigation District, and regulations, easements, contacts, water and irrigation rights in connection therewith.
5. Any unpaid charges or assessments of Horsefly Irrigation District.
6. Reservations and restrictions contained in deed form from Ada Parsons Sparretorn, a widow to Henry O. Cox, John E. Cox and Charles E. Cox, dated June 9, 1936, and recorded June 11, 1936, in Deed Volume 106 on Page 460, Records of Klamath County, Oregon, as follows: "Saving and reserving unto grantor an undivided $\frac{1}{2}$ interest in all oil, gas and minerals on, in and under said lands, with the right at all times to enter into and upon the same to explore therefore and to bore wells and make excavations, and remove all oils and minerals found thereon and there, with rights of way for pipe lines, and less rights of way for roads.
7. Boundary line, Joint Use and Easements Agreement, including the terms provisions thereof, given by and between LaVerne Haskins and Norma Haskins, husband and wife, and Louis J. Arata and Linda S. Arata, husband and wife, dated April 19, 1979, and recorded April 19, 1979, in M-79, on Page 8800, Records of Klamath County, Oregon.
8. Easements and rights of way of record and apparent thereon.
4. Default: Failure to pay the sum of \$15,000.00 including interest, on January 2, 1987, and failure to pay taxes under Klamath County Assessor's No. 456018 and 456198 for the 1986-87 fiscal year promptly before any part thereof becomes past due.
5. Forfeiture Remedy:
Paragraph 10 of the Contract of Sale states:
"The following shall constitute a default of Buyer:
a. Failure of Buyer to make payments as herein provided for more than 30 days after the payment becomes due. The acceptance of any sum secured by this Contract after its due date shall not constitute a waiver of Seller's right either to require prompt payment when due or to seek any remedy provided for herein.
b. Failure of Buyer to perform any covenants or conditions of this Contract (other than failure to make payments as provided in the preceding subparagraph) after 30 days written notice of such failure and demand for performance".
Paragraph 11 of the Contract of Sale states:
"If Buyer shall be in default as above provided, Seller shall have the following cumulative rights which Seller may, at Seller's election, exercise sequentially or contemporaneously:
a. To foreclose this Contract by strict foreclosure in equity;

- b. To declare the full unpaid balance of the purchase price immediately due and payable;—
- c. To specifically enforce the terms of this Contract by suit in equity;
- d. To declare this Contract null and void provided Seller observes the following procedure: gives written notice to Buyer that, unless Buyer pays any or all delinquent payments within 60 days from the date of such notice, the Contract shall be null and void and Seller may retake possession of the Real Property without refund of any prior payments. Such notice may not be given unless Buyer is in default as provided in Paragraph 10, above".

Paragraph 11 of the Contract of Sale states:
"Time is expressly made the essence of this Contract".

6. Curing Default: Curing default means: payment of the sums due under the Contract of \$15,000.00, \$119.52 plus interest for taxes, under Klamath County Assessor's Numbers 456018 and 456198 for the 1986-87 fiscal year, together with \$350.00 attorneys fees and \$35.00 costs of title search; all as provided in ORS 93.920. This Contract shall be forfeited on the sixty-first (61st) day following receipt of this Notice by Purchaser.

7. Affidavit: The affidavit for forfeiture provided in ORS 93.930.

8. ORS 93.905 to ORS 93.940: The provisions of ORS 93.905 to ORS 93.940 set forth below and on the reverse of this Notice and which are thereby incorporated herein as though fully set forth heretofore.

9. Pronouns: Pronouns used in this Notice shall be construed in accordance with the appropriate gender or neuter, and as either singular or plural as the context requires.

DATED: 4/20, 1987.

By: Laverne Haskins
Laverne Haskins, Seller

By: Norma J. Haskins
Norma J. Haskins, Seller

ORS 93.905 to ORS 93.940 — FORFEITURE UNDER LAND SALES CONTRACT

93.905 — Definitions for ORS 93.905 to 93.940: As used in ORS 93.905 to 93.940, unless the context requires otherwise: (1) "Contract for transfer or conveyance of an interest in real property" shall not include earnest money or preliminary sales agreements, options or rights of first refusal. (2) "Forfeiture remedy" means the non-judicial remedy whereby the seller cancels the contract for default, declares the purchaser's rights under the contract to be forfeited, extinguishes the debt and retains sums previously paid thereunder by the buyer. (3) "Purchase price" means the total price for the interest in the real property as stated in the contract, including but not limited to down payment, other property or value given or promised for which a dollar value is stated in the contract and the balance of the purchase price payable in installments, not including interest. If the contract provides for the conveyance of an interest in more than one parcel of property, the purchase price shall include on the portion of the price attributable to the remaining, un conveyed interest in real property, if the value thereof is separately stated or can be determined from the terms of the contract. (4) "Purchaser" means any person who by voluntary transfer acquires a contractual interest in real property, any successor in interest to all or any part of the purchaser's contract rights of whom the seller has actual or constructive notice, and any person having a subordinate lien or encumbrance of record, including, but not limited to, a mortgagee, a beneficiary under a trust deed and a purchaser under a subordinate contract for transfer or conveyance of an interest in real property. (5) "Seller" means any person who transfers or conveys an interest in real property, or any successor in interest of the seller. (6) "Unpaid balance" means the sum of the unpaid principal balance, accrued unpaid interest and any sums actually paid by the seller on behalf of the purchaser for items required to be paid by the purchaser, including amounts paid for delinquent taxes, assessments or liens, or to obtain or reinstate required insurance. [1985 c.718 §1]

93.910 — Enforcement of forfeiture remedy after notice of default: Whenever a contract for transfer or conveyance of an interest in the real property provides a forfeiture remedy, whether the remedy is self-executing or is optional, forfeiture of the interest of a purchaser in default under the contract may be enforced only after notice of the default has been given to the purchaser as provided in ORS 93.915, notwithstanding any provision in the contract to the contrary. [1985 c.718 §2]

93.915 — Notice of default; contents; time of forfeiture: (1) In the event of a default under a contract for conveyance of real property, a seller who wishes to enforce a forfeiture remedy must give the purchaser written notice by first class and certified mail with return receipt requested. (2) The notice shall specify the nature of the default, the amount of the default if the default is in the payment terms, the date after which the contract will be forfeited if the purchaser does not cure the default and the name and address of the seller or the attorney for the seller. The period specified in the notice after which the contract will be forfeited may not be less than: (a) Sixty days, when the purchaser has reduced the unpaid balance to an amount greater than 75 percent of the purchase price; (b) Ninety days, when the purchaser has reduced the unpaid balance to an amount which is more than 50 percent but less than 75 percent of the purchase price; or (c) One hundred twenty days, when the purchaser has reduced the unpaid balance to an amount which is 50 percent or less of the purchase price. (3) The statement contained in the notice as to the time after which the contract will be forfeited if the default is not cured shall conclusively be presumed to be correct, and the notice adequate, unless one or more recipients of such notice notifies the seller or the attorney for the seller, by registered or certified mail, that such recipient claims the right to a longer period of time in which to cure the default. [1985 c.718 §3]

93.920 — Curing default to avoid forfeiture; payment of costs and expenses: A purchaser in default may avoid a forfeiture under the contract by curing the default or defaults before expiration of the notice period provided in ORS 93.915. If the default consists of a failure to pay sums when due under the contract, the default may be cured by paying the entire amount due, other than sums that would not then be due had no default occurred, at the time of cure under the terms of the contract. Any other default under the contract may be cured by tendering the performance required under the contract. In addition to paying the sum or tendering the performance necessary to cure the default, the defaulting purchaser shall pay all costs and expenses actually incurred in enforcing the contract, including, but

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not limited to, late charges, attorney fees not to exceed \$350 and costs of title search. [1985 c.718 §4]
93.915 — Failure to cure default; exclusiveness of notice: Notwithstanding a seller's waiver of prior defaults, if notice is given and purchaser does not cure the default within the period specified in ORS 93.915, the contract forfeiture remedy may be exercised and the contract shall not be reinstated by any subsequent offer or tender of performance. The notice required in ORS 93.915 shall be in lieu of any notice that may be required under the terms of the contract itself, except where greater notice or notice to persons other than those described in ORS 93.915 is required by the terms of the contract, in which case notice shall be given for such longer period of time and to such additional persons as required by the contract. [1985 c.718 §5]

93.920 — Recording affidavit after forfeiture; affidavit as evidence: When a contract for conveyance of real property has been forfeited in accordance with its terms after the seller has given notice to the purchaser as provided in ORS 93.915, the seller shall record an affidavit with the property description, a copy of the notice of default and proof of mailing attached, setting forth that the default of the purchaser under the terms of the contract was not cured within the time period provided in ORS 93.915 and that the contract has been forfeited. When the affidavit is recorded in the deed records of the county where the property described therein is located, the recitals contained in the affidavit shall be prima facie evidence in any court of the truth of the matters set forth therein, but the recitals shall be conclusive in favor of a purchaser for value in good faith relying upon them. Upon the recordation of the affidavit, the contract shall be extinguished and canceled, and the purchaser shall have no further right, title or interest in and to the real property. [1985 c.718 §6]

93.925 — Effect of purchaser's abandonment or reconveyance on interest, lien or claim: (1) In the event of a default under a contract for conveyance of real property, the interest, lien or claim of a person with respect to the real property, by virtue of an assignment, conveyance, contract, mortgage, trust deed or other lien or claim from or through a purchaser, shall not be affected by the purchaser's abandonment or reconveyance to the seller unless the person is given notice in the manner specified in ORS 93.915. (2) The notice shall specify the nature of the default, the amount of the default if the default is in the payment terms, the date after which the purchaser's interest in the real property will be abandoned or reconveyed to the seller and the name and address of the seller or the attorney for the seller. The period specified in the notice after which the purchaser's interest will be abandoned or reconveyed to the seller may not be less than: (a) Sixty days, when the purchaser has reduced the unpaid balance to an amount greater than 75 percent of the purchase price; (b) Ninety days, when the purchaser has reduced the unpaid balance to an amount which is more than 50 percent but less than 75 percent of the purchase price; or (c) One hundred twenty days, when the purchaser has reduced the unpaid balance to an amount which is 50 percent or less of the purchase price. (3) If the person having an interest, lien or claim with respect to the real property, by virtue of an assignment, conveyance, contract, mortgage, trust deed or other lien or claim from or through a purchaser whose interest arises under a contract for conveyance of real property, cures the default as provided in ORS 93.920 then such person's interest, lien or claim with respect to the real property shall not be affected by the purchaser's abandonment or reconveyance to the seller. [1985 c.718 §7]

93.940 — Effect of seller's foreclosure or other action on interest, lien or claim: The interest, lien or claim of a person with respect to the real property, by virtue of an assignment, conveyance, contract, mortgage, trust deed or other lien or claim from or through a purchaser whose interest arises under a contract for conveyance of real property, shall be not affected by the seller's foreclosure or other action on the contract unless such person is made a party to the action brought by the seller to enforce or foreclose the contract. In such action, such person shall be entitled to the same rights and opportunities to cure the purchaser's default or satisfy the purchaser's obligations as are granted the purchaser. [1985 c.718 §8]

STATE OF OREGON: COUNTY OF KLAMATH: SS.

Filed for record at request of Giacomini, Jones & Trotman, Attorneys the 23rd day
 of June A.D., 19 87 at 4:22 o'clock P M., and duly recorded in Vol. M87,
 of Deeds on Page 10907.

Evelyn Biehn, County Clerk
 By [Signature]

FEE \$21.00