

28935

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THIS MORTGAGE, Made this 14th day of November, 1996, between ABIIQUA COMPANY, an Oregon corporation

as mortgagor, and BILLIE SCOTT and HOWARD CARLSON, or the survivor thereof

WITNESSETH, That the mortgagor in consideration of _____, as mortgagee, TWELVE THOUSAND _____ Dollars (\$12,000.00)

paid to the mortgagor by the mortgagee, does hereby grant, bargain, sell and convey unto the mortgagee, and the mortgagee's personal representatives, successors and assigns, that real property situated in the County of Klamath Falls, State of Oregon, described as follows in Exhibit "A" attached hereto and incorporated herein by reference.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom, and any and all fixtures upon the 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 premises with the appurtenances unto the mortgagee and the mortgagee's personal representatives, successors and assigns forever.

This mortgage is intended to secure the payment of one (or more) promissory note(s), in substantially the following tenor(s) in the principal balance of \$12,000 with interest at 7% per annum from November 14, 1996 until paid. All due on November 14, 2001.

MORTGAGE

Abiqua Company

to
Billie Scott
Howard Carlson

After recording return to (Name, Address, Zip):

James D Fournier

Attorney At Law

195 Main St

PO Box 680

Mt Angel OR 97362

SPACE RESERVED
FOR
RECORDER'S USE

STATE OF OREGON,

County of _____ } ss.

I certify that the within instrument was received for record on the _____ day of _____, 19____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ and/or as fee/file/instrument/microfilm/reception No. _____, Record of Deeds of said County.

Witness my hand and seal of County attixed.

NAME TITLE

By _____, Deputy.

IN WITNESS WHEREOF
DO NOTARY

37142

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: 11/14/2000

The mortgagor warrants that the proceeds of the loan represented by the note(s) and this mortgage are:
(a) ~~primarily for mortgagor's personal, family or household purposes (see Important Notice below), or~~

(b) for an organization or (even if mortgagor is a natural person) for business or commercial purposes.

This mortgage is further conditioned upon the faithful observance by the mortgagor of the following covenants hereby expressly entered into by the mortgagor, to-wit:
Mortgagor is lawfully seized of the premises and now has a valid and unencumbered fee simple title thereto, except as follows (if no exceptions, so state): as stated in Exhibit "A"

and mortgagor will warrant and defend the same against the claims and demands of all persons whomsoever.
Mortgagor will pay the promissory note(s) and all installments of interest thereon promptly as the same become due, according to the tenor of the note(s).

So long as this mortgage remains in force, mortgagor will pay all taxes, assessments, and other charges of every nature levied or assessed upon or against the premises when due and payable, according to law, and before the same become delinquent, and will also pay all taxes levied or assessed on this mortgage or the debt thereby secured, and will promptly pay and satisfy any mechanics' liens or other encumbrances that, by operation of law or otherwise, become a lien upon the mortgaged premises superior to the lien of this mortgage.

Mortgagor will keep the improvements erected on the premises in good order and repair and will not commit or suffer any waste of the 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(s), as well as the cost of any lien search made by filing officers or searching agencies as may be deemed desirable by the mortgagee.

So long as this mortgage shall remain in force, mortgagor will keep the buildings now erected, or any which may hereafter be erected on the premises, insured against loss or damage by fire, with extended coverage, to the extent of \$ _____ in some company or companies acceptable to the mortgagee and for the benefit of both parties hereto as their interests may appear, and will deliver all the policies and renewals thereof to the mortgagee.

NOW, THEREFORE, if the mortgagor shall pay the promissory note(s) and shall fully satisfy and comply with the covenants hereinbefore set forth, then this conveyance shall be void, but otherwise it shall remain in full force and virtue as a mortgage to secure the payment of the promissory note(s) in accordance with the terms thereof and the performance of the covenants and agreements herein contained. Any failure to make any of the payments provided for in the note(s) or this mortgage when the same shall become due or payable, or to perform any agreement herein contained, shall give to the mortgagee the option to declare the whole amount due on the note(s), or unpaid thereon or on this mortgage, at once due and payable, and this mortgage by reason thereof may be foreclosed at any time thereafter. If the mortgagor shall fail to pay any taxes or other charges or any lien or insurance premium as herein provided to be done, the mortgagee shall have the option to pay the same. Any payment so made shall be added to and become a part of the debt secured by this mortgage, and draw interest at the same rate as the note(s) without waiver, however, of any right arising from breach of any of the covenants herein. Time is of the essence with respect to all sums due hereunder, and the promissory note(s).

In case a suit or action is brought to foreclose this mortgage, the court may, upon motion of the holder of the mortgage, without respect to the condition of the property, appoint a receiver to collect the rents and profits arising out of the premises and direct the receiver to apply such rents and profits to the payment and satisfaction of the amount due under this mortgage, first deducting all proper charges and expenses of the receivership, including a reasonable charge for attorney fees.

In the event any suit or action to foreclose this mortgage is commenced, the losing party therein agrees to pay the attorney fees, costs and disbursements of the prevailing party, including statutory costs and disbursements and costs of title report(s) and/or title search. If any appeal is taken from any judgment or decree entered pursuant to such suit or action, the losing party on appeal therein promises to pay the attorney fees, costs and disbursements, including all statutory costs and disbursements, of the prevailing party. To the extent permitted by law, all such sums shall be and are secured by the lien of this mortgage and shall be included in the judgment or decree of foreclosure.

Each and all of the covenants and agreements herein contained shall apply to, inure to the benefit of, and bind the personal representatives, successors and/or assigns of the mortgagor and of the mortgagee respectively.

In construing this mortgage and related note(s), it is understood that the mortgagor or mortgagee may be more than one person. If the context so requires, the singular shall be taken to mean and include the plural. 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, the mortgagor has executed this instrument the day and year first above written.
If the mortgagor is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

ABIQUA COMPANY

By: [Signature]

James D. Fournier, Secretary

STATE OF OREGON, County of Marion) ss.

This instrument was acknowledged before me on _____, 19____,

by JAMES D. FOURNIER November 14, 1996,

as Secretary

of ABIQUA COMPANY, an Oregon corporation



[Signature]
Notary Public for Oregon

My commission expires 2-19-2000

* IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is inapplicable. If warranty (a) is applicable, and if the mortgagee is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the mortgagees MUST comply with the Act and Regulation by making required disclosures. For this purpose, use Stevens-Ness Form No. 1319 or equivalent.

DESCRIPTION

A tract of land situated in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 29, Township 39 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the West line of said NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, said point being South 89° 58' 36" East 1319.48 feet and South 00° 17' 46" West 511.68 feet from the West $\frac{1}{4}$ corner of said Section 29; thence South 00° 17' 46" West along the West line of said NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ 313.63 feet; thence North 73° 20' 20" East 1232.38 feet; thence North 16° 39' 40" West 300.00 feet; thence South 73° 20' 20" West 1140.91 feet to the point of beginning.

ALSO SUBJECT TO:

Rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.

The premises herein described are within and subject to the statutory powers, including the power of assessment, of Horsefly Irrigation District.

Reservations and right of way as contained in Patents from the United States recorded in Deed Volume 45, page 265, Records of Klamath County, Oregon, and in Deed Volume 45, page 575, Deed Volume 50 page 365 and Deed Volume 107, page 353, Deed Records of Klamath County, Oregon.

Terms and provisions of stipulation and agreement for right of way, recorded in Volume 114, page 604, Records of Klamath County, Oregon, Grace C. Patterson and J. G. Patterson, her husband, plaintiff vs. Horsefly Irrigation District, a quasi-public corporation, Irl Davis and Henry Schmor, Defendant.

Reservations and right of way recorded in Volume 182, page 277, Records of Klamath County, Oregon, to wit:

"subject to right of way for ditches, canals and reservoir sites for irrigation purposes constructed or which may be constructed by the authority of the United States or otherwise which right of way is hereby expressly reserved." (Affects 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 $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 29, T. 39 S., R. 11 E. W. M.)

Right of Way Agreement, including the terms and provisions thereof, granted to Pacific Gas Transmission Company, a California corporation, recorded in Volume 322, page 228, Records of Klamath County, Oregon, and Notice of Location Amending Existing Right of Way recorded in Volume M79, page 1381, Microfilm Records of Klamath County, Oregon.

(Affects SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ of Sec. 20; the W $\frac{1}{2}$ E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$ of Sec. 29; the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 32, the W $\frac{1}{2}$ SW $\frac{1}{4}$ pf Sec. 33, T. 39 S., R. 11; NW $\frac{1}{4}$ of Sec. 4, T. 40 S., R. 12; NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 32, T. 39 S., R. 11 E. W. M.)

Right of Way Easement, including the terms and provisions thereof,

Dated: April 30, 1980

Recorded: October 8, 1980

Volume: M80, page 19503, Microfilm Records of Klamath County, Oregon

In favor of: Pacific Power & Light Company

For: Electric transmission and distribution lines

Access easement 60 feet in width as disclosed in Survey #2579, filed December 9, 1977.

EXHIBIT "A"

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of James D. Fournier the 26th day of November A.D. 1996 at 3:16 o'clock P.M., and duly recorded in Vol. M96 of More pages on Page 37141.

FEE \$20.00

Bernetha G. Letsch County Clerk

By Nathan Rosa