

48405

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K-51612
NOTICE OF DEFAULT AND ELECTION TO SELL

Reference is made to that certain trust deed made by Robert F. Brown

Klamath County Title Company

, as grantor, to

in favor of Al Bruner

, as trustee,

dated April 28

19 95

recorded May 1

19 95

, as beneficiary,

Klamath

County, Oregon, in book/roll/volume No. M95

at page 11136

Klamath County Title Company, No. 99251

(indicate which), covering the following described real

property situated in the above-mentioned county and state, to-wit:

SEE EXHIBIT "A"

The undersigned hereby certifies that no assignments of the trust deed by the trustee or by the beneficiary and no appointments of a successor trustee have been made except as recorded in the mortgage records of the county or counties in which the above-described real property is situated, further, that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the trust deed, or, if such action has been instituted, such action has been dismissed except as permitted by ORS 46.735(4).

There is a default by the grantor or other person owing an obligation, the performance of which is secured by the trust deed, or by the successor in interest, with respect to provisions therein which authorize sale in the event of default of such provision; the default for which foreclosure is made is grantor's failure to pay when due the following sums:

The unpaid principal balance of \$150,000.00 with interest thereon at 15% per annum from November 21, 1996 until paid plus, the unpaid principal balance of \$34,299.43 with interest thereon at 15% per annum from November 21, 1996 until paid.

By reason of the default, the beneficiary has declared all sums owing on the obligation secured by the trust deed immediately due and payable, those sums being the following, to-wit:

The unpaid principal balance of \$150,000.00 with interest thereon at 15% per annum from November 21, 1996 until paid plus, the unpaid principal balance of \$34,299.43 with interest thereon at 15% per annum from November 21, 1996 until paid.

— OVER —

NOTICE OF DEFAULT
AND ELECTION TO SELLRe: Trust Deed from
Brown

Grantor

TO

Klamath County Title Co.

Trustee

After recording (Print Name and Zip):

ATTORNEY-IN-LAW

717 N.W. 5th St.

GRANTS PASS, OR 97526

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/roll/volume No. _____ on page _____ or as fee/file/instrument/microfilm/reception No. _____, Record of Mortgages of said County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____, Deputy

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Notice hereby is given that the beneficiary and trustee, by reason of the default, have elected and do hereby elect to foreclose the trust deed by advertisement and sale pursuant to ORS 86.705 to 86.795, and to cause to be sold at public auction to the highest bidder for cash the interest in the described property which the grantor had, or had the power to convey, at the time of the execution by grantor of the trust deed, together with any interest the grantor or grantor's successor in interest acquired after the execution of the trust deed, to satisfy the obligations secured by the trust deed and the expenses of the sale, including the compensations of the trustee as provided by law, and the reasonable fees of trustee's attorneys.

The sale will be held at the hour of 11:30 o'clock, A. M., in accord with the standard of time established by ORS 187.110 on April 1, 1998, at the following place: 2nd Floor of the Klamath County Post Office, 317 S. 7th Street in the City of Klamath Falls, County of Klamath, State of Oregon, which is the hour, date and place last set for the sale.

Other than as shown of record, neither the beneficiary nor the trustee has any actual notice of any person having or claiming to have any lien upon or interest in the real property hereinabove described subsequent to the interest of the trustee in the trust deed, or of any successor in interest to the grantor or of any lessee or other person in possession of or occupying the property, except:

NAME AND LAST KNOWN ADDRESS

NATURE OF RIGHT, LIEN OR INTEREST

NONE

Notice is further given that any person named in ORS 86.753 has the right, at any time prior to five days before the date last set for the sale, to have this foreclosure proceeding dismissed and the trust deed reinstated by payment to the beneficiary of the entire amount then due (other than such portion of the principal as would not then be due had no default occurred) and by curing any other default complained of herein that is capable of being cured by tendering the performance required under the obligation or trust deed, and in addition to paying the sums or tendering the performance necessary to cure the default, by paying all costs and expenses actually incurred in enforcing the obligation and trust deed, together with trustee's and attorney's fees not exceeding the amounts provided by ORS 86.753.

In construing this notice, the singular includes the plural, the word "grantor" includes any successor in interest to the grantor as well as any other person owing an obligation, the performance of which is secured by the trust deed, and the words "trustee" and "beneficiary" include their respective successors in interest, if any.

DATED November 5, 1997

PATRICK J. KELLY

Trustee

KELLY TRUSTEE

(state which)

STATE OF OREGON, County of Josephine) ss.

This instrument was acknowledged before me on November 5, 1997,
by Patrick J. Kelly

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



Sharon Deardorff

Notary Public for Oregon

My commission expires 9-11-2000

EXHIBIT "A"

The following described real property situate in Klamath County, Oregon:

PARCEL 1:

Township 33 South, Range 6 East of the Willamette Meridian

Section 35: SE $\frac{1}{4}$

Township 34 South, Range 6 East of the Willamette Meridian

Section 1: Lots 5 and 6, Lots 7 and 10 less that portion conveyed to Robert D. Helms et ux, by deed recorded in Volume 227 of Deeds page 92, Lots 11, 12, 13 and 20

Section 2: Lots 1, 2, 3, 6, 7, 8, 9, 10, 16, 17 and 24

EXCEPTING THEREFROM a road right of way 155 feet in width across the E $\frac{1}{2}$ of Section 35, Township 33 South, Range 6 E.W.M. as conveyed to Klamath County, Oregon by Deed recorded April 9, 1965, in Deed Volume 360 at page 541 and by Deed recorded April 19, 1965, in Volume 360 at page 656.

ALSO EXCEPTING THEREFROM a road right of way across the E $\frac{1}{2}$ of Section 35, Township 33 S.R. 6 E.W.M. and across the W $\frac{1}{2}$ of Section 36, Township 33 S.R. 6 E.W.M., as conveyed to Klamath County, Oregon by deed recorded July 14, 1965, in Deed Volume 363 at page 178.

PARCEL 2:

Township 34 South, Range 7 $\frac{1}{2}$ East of the Willamette Meridian

A piece or parcel of land situated in Sections 5, 8, 16, 17, 20 and 21, and being more particularly described as follows:

Beginning at the intersection of the center line of Seven Mile Canal as the same is now located and constructed, with the line marking the Westerly boundary of the said Section 5, Township 34 South, Range 7 $\frac{1}{2}$ East of the Willamette Meridian, and 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 South 83°59' West, 5310.1 feet distant, and running; thence downstream along the said center line of Seven Mile Canal South 61°35' East 861.2 feet; thence South 31°46' East 2306.4 feet; thence South 34°23' East 1252.4 feet; thence South 32°27' East 2101.8 feet; thence South 41°02' East 8802.1 feet, more or less, to the intersection of the said center line of Seven Mile Canal, with a line which is parallel with and 70.0 feet at right angles Southeasterly from the center line of the Dixon and McQuiston Levee, as the same is now located and constructed; thence leaving the center line of

EXHIBIT "A" CONTINUED

Seven Mile Canal and following the said line parallel with the said Dixon and Mcquiston Levee South 44°40' West 6437.9 feet, more or less, to its intersection with the Southerly boundary of the said Section 20, Township 34 South, Range 7½ East of the Willamette Meridian; thence Westerly along the Southerly boundary of said Section 20, 4905.3 feet, more or less, to the Southwesterly corner of the said Section 20, Township 34 South, Range 7½ East of the Willamette Meridian; thence North along the Westerly boundary of the said Sections 20, 17, 8 and 5, Township 34 South, Range 7½ East of the Willamette Meridian, 16,570.6 feet, more or less, to the said point of beginning.

EXCEPTING THEREFROM that portion conveyed to D'Artney Bros., a Co-partnership, by deed recorded in Volume 381 at page 367, Deed Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM that portion conveyed to Byron W. Bacchi, et ux., and Henry Francis Bacchi, et ux., by Deed recorded in Volume 350 at page 675, Deed Records of Klamath County, Oregon.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of KLAMATH CO. TITLE the 10TH day
of NOV A.D. 19 97 at 3:02 o'clock P. M., and duly recorded in Vol. M97
of MORTGAGES on Page 37130

FEE \$25.00

Bernetha G. Letsch, County Clerk

By Bernetha G. Letsch