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# NOTICE OF DEFAULT AND ELECTION TO SELL

Vol M04 Page 08580

RE: Trust Deed from

Ernst Brothers, LLC

To

Grantor

Neal Buchanan,

Trustee

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

Patrick G. HuyckeHuycke, O'Connor & Jarvis, LLP502 West Main St., Suite 102Medford OR 97501

SPACE RESERVED  
FOR  
RECORDER'S USE

State of Oregon, County of Klamath

Recorded 02/13/2004 9:53a mVol M04 Pg 8580-83

Linda Smith, County Clerk

Fee \$ 36.00 # of Pgs 4Reference is made to that certain trust deed made by Ernst Brothers, LLC

Neal Buchanan, as grantor, to  
Howard Charles Hassett 1994 Trust UTD 9/27/94 and the Mary Ann Hassett, as trustee,  
in favor of 1994 Trust UTD 9/27/94\*, as beneficiary,  
dated January 26, 2000, recorded on April 24, 2000, in the Records of  
Klamath County, Oregon, in book and volume No. M00 at page 13954, and/or as  
see file/instrument microfilm/exception records (indicate which), covering the following described real property  
situated in the above-mentioned county and state, to-wit:  
SEE EXHIBIT "A" ATTACHED HERETO

\*The beneficial interest under said Trust Deed was assigned by instrument dated December 27, 2001, recorded December 27, 2001, in Vol. M01, page 66327, Microfilm Records of Klamath County, Oregon, from Howard Charles Hassett 1994 Trust dated September 27, 1994, and the Mary Ann Hassett 1994 Trust dated September 27, 1994 to Patrick G. Huycke, Trustee of the Huycke, Boyd & Maulding, LLP 401K Profit Sharing Plan nka the Huycke, O'Connor & Jarvis, LLP 401K Profit Sharing Plan, fbo Patrick G. Huycke.

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 Records of the county or counties in which the above-described real property is situated. Further, 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 86.735(4).

There is a default by grantor or other person owing an obligation, 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: Failure to pay the balance of principal and interest due on February 27, 2003, total now due \$451,753.88, plus accrued interest owing to February 4, 2004, in the amount of \$6,764.53, plus interest on the unpaid principal balance from and after February 4, 2004, until paid, at the rate of 15% per annum.

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: \$451,753.88, plus accrued interest owing to February 4, 2004, in the amount of \$6,764.53, plus interest on the unpaid principal balance from and after February 4, 2004, until paid, at the rate of 15% per annum.

(OVER)

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08581



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 grantor had, or had the power to convey, at the time of the execution by grantor of the trust deed, together with any interest 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 o'clock, A.M., in accord with the standard of time established by ORS 187.110 on July 12, 2004, at the following place: front entrance of the Klamath County Courthouse, 316 Main 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 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

Crescent Oil Group, LLC, dba  
Mollie's Truck Stop  
3817 Highway 97 South  
Klamath Falls, OR 97601

Occupant

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 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 February 9 2004

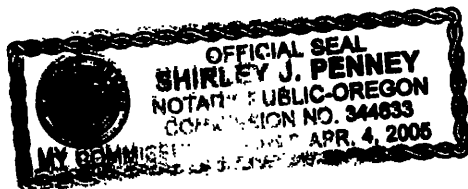
*[Signature]*  
Darrel R. Jarvis

Successor ☒ Trustee ☐ Beneficiary (indicate which)

STATE OF OREGON, County of Jackson ) ss.

This instrument was acknowledged before me on February 2004  
by Darrel R. Jarvis

This instrument was acknowledged before me on \_\_\_\_\_  
by \_\_\_\_\_  
as \_\_\_\_\_  
of \_\_\_\_\_



*[Signature]*  
Notary Public for Oregon  
My commission expires 4-4-05

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL 1:**

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

A piece or parcel of land situated in the NE 1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon and more particularly described as follows:

Beginning at an iron pipe which is South 0 degrees 06' West 323.4 feet and North 89 degrees 49' West 234.2 feet from the NE Section Corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon which point of beginning is also the NE corner of that certain tract of land conveyed to Elmer W. and Flora M. Zigler on page 238 Deed Volume 278 of the records of Klamath County, Oregon; thence North 89 degrees 49' West along the Northerly boundary of said tract of land conveyed on page 238 Deed Volume 278, a distance of 334.8 feet to an iron pipe set at its intersection with a line which is parallel to and 192.77 feet Northeasterly of, when measured at right angles to, the Northeasterly right of way line of the Dalles-California Highway (No. US97) as the same is now located across said Section 19; thence North 38 degrees 52' West parallel to and 192.77 feet distant from said Northeasterly highway right of way line a distance of 147.25 feet to an iron pipe; thence South 89 degrees 49' East a distance of 427.3 feet to an iron pipe; thence South 0 degrees 06' West a distance of 114.35 feet more or less, to the point of beginning.

**PARCEL 2**

Beginning at a point which is South 0 degrees 06' West a distant 477.4 feet and North 89 degrees 49' West a distance of 234.2 feet from the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon; thence North 0 degrees 06' East a distance of 154 feet to a point; thence North 89 degrees 49' West a distance of 336 feet, more or less, to a point on a line which is parallel to and distant 192.77 feet at right angles from the Northeasterly right of way line of the Dalles-California Highway; thence South 38 degrees 52' East a distance of 200 feet, more or less, to a point which is North 0 degrees 06' East a distance of 211.1 feet from the North line of Byrd Avenue in Chelsea Addition; thence South 89 degrees 49' East a distance of 210.2 feet to the place of beginning, being in the NE 1/4 NE 1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

**PARCEL 3**

All that portion of the NE 1/4 NE 1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a section corner common to Sections 17, 18, 19, and 20, said Township and Range; thence South 0 degrees 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89 degrees 49' West a distance of 174.2 feet to a point; thence South 0 degrees 06' West a distance of 300.0 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0 degrees 06' East a distance of 479.45 feet to a point; thence North 89 degrees 44' West a distance of 427.3 feet to a point; thence North 38 degrees 46' West a distance of 268.15 feet to a point on the North line of said Section 19; thence South 89 degrees 44' East along said North line a distance of 833.95 feet to the point of beginning.

**PARCEL 3 (continued):**

**EXCEPTING THEREFROM** a tract of land situated in the NE1/4 NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the section corner common to Sections 17, 18, 19 and 20, said Township and Range; thence South 0 degrees 06' West along the East line of said Section 19, a distance of 388.5 feet to a point; thence North 89 degrees 49' West a distance of 174.2 feet to a point; thence South 0 degrees 06' West a distance of 89 feet to the True Point of Beginning of this description; thence continuing South 0 degrees 06' West a distance of 211 feet to a point on the North line of Byrd Avenue; thence West along said North line a distance of 60 feet to a point; thence North 0 degrees 06' East a distance of 211 feet to a point; thence South 89 degrees 49' East 60 feet to the point of beginning.

**PARCEL 4**

Beginning at a point on the Northeasterly right of way line of State Highway No. 97 which lies South 0 degrees 06' West along the East section line a distance of 688.5 feet and North 89 degrees 49' West along the North line of Byrd Avenue in Chelsea Addition, a distance of 521.6 feet and North 38 degrees 52' West along the Northeasterly right of way line of State Highway No. 97 (Note: State Highway bearing of this line shows North 39 degrees 7 1/2' West) a distance of 130.55 feet from the iron axle which marks the Northeast corner of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, running thence; continuing North 38 degrees 52' West along the Northeasterly right of way line of State Highway No. 97, a distance of 250 feet to a point; thence North 51 degrees 08' East a distance of 192.77 feet to a point; thence South 38 degrees 52' East a distance of 250 feet to a point; thence South 51 degrees 08' West a distance of 192.77 feet, more or less to the point of beginning, in the NE 1/4 NE 1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

All inventory, equipment, accounts, contract rights and name associated with the above described real property and products of such personal property shall also be sold pursuant to this Notice of Default and Election to Sell, the beneficiary being granted a security interest in such personal property pursuant to a Security Agreement made by Crescent Oil Group, LLC, an Oregon limited liability company, as assignee of Crescent Oil Company, Inc., dated January 26, 2000.