

mtc-1396-7071

RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING. ANY ERRORS IN THIS COVER SHEET DO NOT AFFECT THE TRANSACTION(S) CONTAINED IN THE INSTRUMENT ITSELF.

M05-66787

Klamath County, Oregon

10/18/2005 10:25:21 AM

Pages 11 Fee: \$71.00

After Recording Return To:

Pacific West Financial Group
626 South Seventh Street
Klamath Falls, OR 97601

1. Name(s) of the Transaction(s):

Deed Of Trust

2. Direct Party (Grantor):

James and Squeak McGilvary

3. Indirect Party (Grantee):

4. True and Actual Consideration Paid:

Not to exceed \$75,000.00

AMERITITLE, has recorded this instrument by request as an accommodation only, and has not examined it for regularity and sufficiency or as to its effect upon the title to any real property that may be described therein.

5. Legal Description:

See Attached

7/10

DEED OF TRUST

THIS DEED OF TRUST is made as of the 6 day of October, 2005 by JAMES AND SQUEAK MCGILVARY, ("Grantors"), to FIDELITY NATIONAL TITLE COMPANY OF OREGON, ("Trustee"), for the benefit of PAUL LEWIS, ("Beneficiary").

WHEREAS, Grantors has borrowed money from Beneficiary for the purpose of constructing home improvements in the Property, is incurring an indebtedness to the Beneficiary in the sum of NOT TO EXCEEDS \$75,000, which indebtedness is to be evidenced by the Promissory Note dated September 1, 2005 from Grantors to Beneficiary in the principal amount NOT TO EXCEEDS \$75,000. The indebtedness, if not sooner paid, is due and payable in full on December 1, 2020. (The Promissory Note as modified, supplemented, extended, renewed, or replaced from time to time is referred to below as the "Note"); and

WHEREAS, as a condition to the of making the loan to Grantors, Beneficiary has required, and Grantors has agreed to execute and deliver, this Deed of Trust;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and for the purpose of securing the Obligations described in Section 1.01 below, Grantors irrevocably grants, bargains, sells, conveys, assigns, and transfers to Trustee in trust for the benefit and security of the Beneficiary, with power of sale and right of entry and possession, all of Grantors' right, title, and interest in and to the real property located in Klamath County, in the State of Oregon, and more particularly described in Exhibit A attached hereto and incorporated herein (the "Property");

TOGETHER WITH all interests, estates, and rights that Grantors now has or may acquire in (1) the Property; (2) any and all options, agreements, and contracts for the purchase or sale of all or any part or parts of the Property or interests in the Property; (3) all easements, rights-of-way, and rights used in connection with the Property or as a means of access to the Property; and (4) all tenements, hereditaments, and appurtenances in any manner belonging, relating, or appertaining to the Property;

TOGETHER WITH all interests, estates, and rights of Grantors, now owned or hereafter acquired, in and to any land lying within any streets, sidewalks, alleys, strips, and gores adjacent to or used in connection therewith;

TOGETHER WITH all rights, titles, and interests of Grantors, now owned or hereafter acquired, in and to any and all buildings and other improvements of every nature now or hereafter located on the Property and all fixtures, machinery, equipment, and other personal property located on the Property or attached to, contained in, or used in any such buildings and other improvements, and all appurtenances and additions to and substitutions and replacements of the Property (all of the foregoing being collectively referred to below as the "Improvements");

TOGETHER WITH any and all mineral, oil and gas rights, air rights, development rights, water rights, water stock, and water service contracts, drainage rights, zoning rights, and other similar rights or interests that benefit or are appurtenant to the Property or the Improvements or both, and any of Grantors' proceeds;

TOGETHER WITH all rights, titles, and interests of Grantors in and to all present and future licenses, permits, approvals, and agreements with or from any municipal corporation, county, state, or other governmental or quasi-governmental entity or agency relating to the development, improvement, division, or use of all or any portion of the Property to the extent such licenses, permits, approvals, and agreements are assignable by law; and all other general intangibles relating to the Property, the Improvements, or Grantors' use and operation;

TOGETHER WITH all rights of Grantors in and to any escrow or withhold agreements, title insurance, surety bonds, warranties, management contracts, leasing and sales agreements, and service contracts that are in any way relevant to the ownership, development, improvement, management, sale, or use of all or any portion of the Property or any of the Improvements;

TOGETHER WITH Grantors' rights under any payment, performance, or other bond in connection with construction of any Improvements, and all construction materials, supplies, and equipment delivered to the Property or intended to be used in connection with the construction of any Improvements; and

TOGETHER WITH all rights, interests, and claims that Grantors now has or may acquire with respect to any damage to or taking of all or any part of the Property or the Improvements, including without limitation any and all proceeds of insurance in effect with respect to the Improvements, any and all awards made for taking by eminent domain or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property or the Improvements, and any and all awards resulting from any other damage to the Property or the Improvements, all of which are assigned to Beneficiary, and, subject to the terms of this Deed of Trust, Beneficiary is authorized to collect and receive such proceeds, to give proper receipts and acquittances for the proceeds, and to apply them to the Obligations secured by this Deed of Trust.

All of the above is sometimes referred to below as the "Trust Property."

TO HAVE AND TO HOLD the Trust Property to Trustee and its successors and assigns for the benefit of Beneficiary and Beneficiary's successors and assigns, forever.

PROVIDED ALWAYS, that if all the Obligations secured herein shall be paid, performed, and satisfied in full, then the lien and estate granted by this Deed of Trust shall be reconveyed;

This Deed of Trust, executed and recorded in Klamath County, Oregon ; the Note; and all other agreements or instruments executed at any time in connection therewith; as they may be amended or supplemented from time to time, are sometimes collectively referred to below as the "Loan Documents."

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, GRANTORSS HEREBY COVENANT AND AGREE AS FOLLOWS:

ARTICLE I. PARTICULAR COVENANTS AND WARRANTIES OF GRANTORS

1.01 Obligations Secured. This Deed of Trust secures the following, collectively referred to as the "Obligations:"

1.01.1 The payment of all indebtedness, including but not limited to principal and interest, and the performance of all covenants and obligations of Grantors under the Note, whether such payment and performance is now due or becomes due in the future;

1.01.2 The payment and performance of all covenants and obligations in this Deed of Trust, in the other Loan Documents, and in all other security agreements, notes, agreements, and undertakings now existing or hereafter executed by Grantors with or for the benefit of Beneficiary; and

1.01.3 The payment and performance of any and all other indebtedness and obligations of Grantors to Beneficiary of any nature whatsoever, whether direct or indirect, primary or secondary, joint or several, liquidated or unliquidated, whenever and however arising, and whether or not reflected in a written agreement or instrument.

1.02 Payment of Indebtedness; Performance of Covenants. Grantors shall duly and punctually pay and perform all of the Obligations.

1.03 Property. Grantors warrants that it holds good and merchantable title to the Property and the Improvements, free and clear of all liens, encumbrances, and adverse claims. Grantors covenant that it shall forever defend Beneficiary's and Trustee's rights under this Deed of Trust against the adverse claims and demands of all persons.

1.04 Further Assurances; Filing; Refiling; Etc.

1.04.1 Grantors shall execute, acknowledge, and deliver, from time to time, such further instruments as Beneficiary or Trustee may require to accomplish the purposes of this Deed of Trust.

1.04.2 Grantors, immediately upon the execution and delivery of this Deed of Trust, and thereafter from time to time, shall cause this Deed of Trust, any supplemental security agreement, mortgage, or deed of trust and each instrument of further assurance, to be recorded and rerecorded in such manner and in such places as may be required by any present or future law in order to perfect, and continue perfected, the lien and estate of this Deed of Trust.

1.04.3 Grantors shall pay all filing and recording fees, and all expenses incident to the execution, filing, recording, and acknowledgment of this Deed of Trust; any security agreement, mortgage, or deed of trust supplemental hereto and any instrument of further assurance; and all federal, state, county, and municipal taxes, assessments and charges arising out of or in connection with the execution, delivery, filing, and recording of this Deed of Trust, any supplemental security agreement, mortgage, or deed of trust and any instrument of further assurance.

1.05 Compliance with Laws. Grantors further represent, warrant, and covenant that:

1.05.1 The Property, if developed with consent as required by Section 1.07 below, will be developed, and all Improvements, if any, will be constructed and maintained, in full compliance with all applicable laws, statutes, ordinances, regulations, and codes of all federal, state, and local governments (collectively "Laws"), and all covenants, conditions, easements, and restrictions affecting the Property (collectively "Covenants"); and

1.05.2 Grantors and its operations upon the Property will hereafter comply in all material respects with all applicable Laws and Covenants.

1.06 Definitions; Environmental Covenants; Warranties and Compliance

1.06.1 For purposes of this section, "Environmental Law" means any federal, state, or local law, statute, ordinance, or regulation pertaining to Hazardous Substances, health, industrial hygiene, or environmental conditions, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended, 42 USC §§9601-9675, and the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended, 42 USC §§6901-6992.

1.06.2 For the purposes of this section, "Hazardous Substance" includes, without limitation, any material, substance, or waste that is or becomes regulated or that is or becomes classified as hazardous, dangerous, or toxic under any federal, state, or local statute, ordinance, rule, regulation, or law.

1.06.3 Grantors will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under or about the Property or the Property's groundwater, or transport to or from the Property, any Hazardous Substance and will not permit any other person to do so while this Deed of Trust remains in effect.

1.06.4 Grantors will keep and maintain the Property in compliance with, and shall not cause or permit all or any portion of the Property, including groundwater, to be in violation of any Environmental Law.

1.06.5 Grantors shall give prompt written notice to Beneficiary of:

1.06.5.a Any proceeding, inquiry, or notice by or from any governmental authority with respect to any alleged violation of any Environmental Law or the presence of any Hazardous Substance on the Property or the migration of any Hazardous Substance from or to other premises;

1.06.5.b All known claims made or threatened by any person against Grantors or with respect to the Property or Improvements relating to any loss or injury resulting from any Hazardous Substance or the violation of any Environmental Law;

1.06.5.c The existence of any Hazardous Substance on or about all or any portion of the Property; or

1.06.5.d Grantors' discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could in Grantors' judgment cause any restrictions on the ownership, occupancy, transferability, or use of the Property under any Environmental Law.

1.06.6 Grantors shall promptly provide to Beneficiary copies of all reports, documents, and notices provided to or received from any agency administering any Environmental Laws. Beneficiary shall have the right to join and participate, in Beneficiary's own name if Beneficiary so elects, in any legal proceeding or action initiated with respect to the Property or Improvements in connection with any Environmental Law and have its attorney fees in connection with such an action paid by Grantors, if Beneficiary determines that such participation is reasonably necessary to protect its interest in the Trust Property.

1.06.7 If, at any time, Beneficiary has reason to believe that any release, discharge, or disposal of any Hazardous Substance affecting the Property or Improvements has occurred or is threatened, or if Beneficiary has reason to believe that a violation of an Environmental Law has occurred or may occur with respect to the Property or Improvements, Beneficiary may require Grantors to obtain or may themselves obtain, at Grantors' expense, an environmental assessment of such condition or threatened condition by a qualified environmental consultant. Grantors shall promptly provide to Beneficiary a complete copy of any environmental assessment obtained by Grantors.

1.06.8 In the event that any investigation, site monitoring, containment, cleanup, removal, restoration, or other remedial work of any kind or nature (the "Remedial Work") is required under any applicable Environmental Law, any judicial order, or by any governmental agency or person because of, or in connection with, the current or future presence, suspected presence, release or suspected release of a Hazardous Substance on, under, or about all or any portion of the Property, or the contamination (whether presently existing or occurring after the date of this Deed of Trust) of the buildings, facilities, soil, groundwater, surface water, air, or other elements on or under any other property as a result of Hazardous Substances emanating from the Property, Grantors shall, within 30 days after written demand by Beneficiary for Grantors' performance under this provision (or such shorter period of time as may be required under any applicable law, regulation, order, or agreement), commence and thereafter diligently prosecute to completion, all such Remedial Work. All costs and expenses of such Remedial Work shall be paid by Grantors including, without limitation, Beneficiary's reasonable attorney fees and costs incurred in connection with monitoring or review of the legal aspects of such Remedial Work. In the event Grantors shall fail to timely commence, or cause to be commenced, such Remedial Work, Beneficiary may, but shall not be required to, cause such Remedial Work to be performed. In that event, all costs and expenses incurred in connection with the Remedial Work shall become part of the Obligations secured by this Deed of Trust and shall bear interest until paid at the rate provided in the Note.

1.06.9 Grantors shall hold Beneficiary, Beneficiary's successors and assigns, harmless from, indemnify them for, and defend them against any and all losses, damages, liens, costs, expenses, and liabilities directly or indirectly arising out of or attributable to any violation of any Environmental Law, any breach of Grantors' warranties in this Section 1.06, or the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a Hazardous Substance on, under, or about the Property, including without limitation the costs of any required repair, cleanup, containment, or detoxification of the Property, the preparation and implementation of any closure, remedial or other required plans, attorney fees and costs (including but not limited to those incurred in any proceeding and in any review or appeal), fees, penalties, and fines.

1.06.10 All representations, warranties, and covenants in this Section 1.06 shall survive the satisfaction of the Obligations, the reconveyance of the Trust Property, or the foreclosure of this Deed of Trust by any means.

1.07 Maintenance and Improvements. Grantors shall not begin any construction of new Improvements or permit or cause to be removed, demolished, or materially altered any existing improvements while this Deed of Trust remains in effect without Beneficiary's prior written consent. Grantors shall not commit, permit,

or suffer any waste, strip, or deterioration of the Trust Property. Grantors shall only utilize the Trust Property for a school or residential subdivision until the Obligations have been paid in full and this Deed of Trust is reconveyed.

1.08 Liens. Grantors shall pay when due all claims that if unpaid might become a lien on all or any portion of the Trust Property. Grantors shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance upon the Trust Property prior to or on a parity with the lien of this Deed of Trust. Grantors shall not create, or suffer, or permit to be created, any mortgage, deed of trust, lien, security interest, charge, or encumbrance upon the Trust Property subordinate to this Deed of Trust without the prior written consent of the Beneficiary.

1.09 Impositions

1.09.1 Grantors shall pay or cause to be paid, when due and before any fine, penalty, interest, or cost attaches, all taxes, assessments, fees, levies, and all other governmental and nongovernmental charges of every nature now or hereafter assessed or levied against any part of the Trust Property (including, without limitation, levies or charges resulting from Covenants), or on the lien or estate of Beneficiary or Trustee (collectively, the "Impositions"); provided, however, that if by law any such Imposition may be paid in installments, whether or not interest shall accrue on the unpaid balance, Grantors may pay the same in installments, together with accrued interest on the unpaid balance, as the same become due, before any fine, penalty, or cost attaches.

1.09.2 Grantors may, at its expense and after prior notice to Beneficiary, contest by appropriate legal, administrative, or other proceedings conducted in good faith and with due diligence, the amount, validity, or application, in whole or in part, of any Imposition or lien on the Trust Properties, and may withhold payment of the same pending completion of such proceedings if permitted by law, provided that (a) such proceedings shall suspend collection from the Trust Property; (b) no part of or interest in the Trust Property will be sold, forfeited, or lost if Grantors pays the amount or satisfies the condition being contested, and Grantors would have the opportunity to do so in the event of Grantors' failure to prevail in the contest; (c) neither Beneficiary nor Trustee shall, by virtue of such permitted contest, be exposed to any risk of liability for which Grantors has not furnished additional security as provided in clause (d) below; and (d) Grantors shall have furnished to Beneficiary cash, corporate surety bond, or other additional security in respect of the claim being contested or the loss or damage that may result from Grantors' failure to prevail in such contest in an amount sufficient to discharge the Imposition and all interest, costs, attorney fees, and other charges that may accrue in connection with the Imposition. Grantors shall promptly satisfy any final judgment.

1.09.3 Grantors shall furnish to Beneficiary, promptly upon request, satisfactory evidence of the payment of all Impositions. Beneficiary is hereby authorized to request and receive from the responsible governmental and nongovernmental personnel written statements with respect to the accrual and payment of all Impositions.

1.10 Inspection of the Property. Grantors shall permit Trustee, Beneficiary, and Beneficiary's authorized representatives to enter and inspect the Property and the Improvements at such reasonable times as Beneficiary or Trustee may choose.

1.11 Limitations of Use. Grantors shall not initiate, join in, or consent to any rezoning of the Property or any change in any Covenant or other public or private restrictions limiting or defining the uses that may be made of all or any part of the Property and the Improvements without the prior written consent of Beneficiary.

1.12 Insurance

1.12.1 Property and Other Insurance. Grantors shall obtain and maintain in full force and effect during the term of this Deed of Trust: (a) all risk property insurance together with endorsements for replacement cost, inflation adjustment, malicious mischief, and sprinkler damage coverages, all in amounts not less than the full replacement cost of all Improvements, without reduction for co-insurance; (b) comprehensive general liability insurance, including liabilities assumed under contract, with limits, coverages, and risks insured acceptable to Beneficiary, and in no event less than \$1,000,000 combined single limit coverage. In addition, Grantors shall obtain and maintain all such other insurance coverages, which at the time are commonly carried for similar property, in such amounts as Beneficiary may require.

1.12.2 Insurance Companies and Policies. All insurance shall be written by a company or companies reasonably acceptable to Beneficiary with a rating of A VIII or better as provided in Best's Rating Guide; shall contain a long form mortgagee clause in favor of Beneficiary with loss proceeds under any policy payable to Beneficiary, subject to the terms of this Deed of Trust shall require 30 days' prior written notice to Beneficiary of cancellation or reduction in coverage; shall contain waivers of subrogation and endorsements that no act or negligence of Grantors or any occupant, and no occupancy or use of the Property for purposes more hazardous than permitted by the terms of the policy will affect the validity or enforceability of such insurance as against Beneficiary; shall be in full force and effect on the date of this Deed of Trust; and shall be accompanied by proof of premiums paid for the current policy year. Beneficiary shall be named as additional insured on all liability policies. Grantors shall forward to Beneficiary, upon request, certificates evidencing the coverages required under this Deed of Trust and copies of all policies.

1.12.3 Blanket Policy. If a blanket policy is issued, a certified copy of such policy shall be furnished together with a certificate indicating that the Trust Property and the Beneficiary are insured under such policy in the proper designated amount.

1.12.4 Insurance Proceeds. All proceeds from any insurance on the Trust Property shall be used in accordance with the provisions of Section 1.14.

1.13 Assignments of Policies upon Foreclosure. In the event of foreclosure of the lien of this Deed of Trust or other transfer of title, or assignment of the Trust Property in whole or in part, all right, title, and interest of Grantors in and to all policies of insurance procured under Section 1.12 shall inure to the benefit of and pass to the successors in interest of Grantors or the purchaser or grantee of all or any part of the Trust Property.

1.14 Casualty/Loss Restoration

1.14.1 After the occurrence of any casualty to the Property, whether or not required to be insured against as provided in this Deed of Trust, Grantors shall give prompt written notice of the casualty to Beneficiary, specifically describing the nature and cause of such casualty and the extent of the damage or destruction to the Trust Property. Beneficiary may make proof of loss if it is not made promptly and to Beneficiary's satisfaction by Grantors.

1.14.2 Grantors assign to Beneficiary all insurance proceeds that Grantors may be entitled to receive with respect to any casualty. Beneficiary may apply the insurance proceeds to the reduction of the Obligations in such order as Beneficiary, in Beneficiary's sole discretion, may determine, whether or not such obligations are then due.

1.15 Actions to Protect Trust Property; Reserves

1.15.1 If Grantors shall fail to obtain the insurance required by Section 1.12, make the payments required by Section 1.09 (other than payments that Grantors is contesting in accordance with Section 1.09(2)), or perform or observe any of its other covenants or agreements under this Deed of Trust, Beneficiary may, without obligation to do so, obtain or pay the same or take other action that it deems appropriate to remedy such failure. All sums, including reasonable attorney fees, so expended or expended to maintain the lien or estate of this Deed of Trust or its priority, or to protect or enforce any of Beneficiary's rights, or to recover any indebtedness secured by this Deed of Trust, shall be a lien on the Trust Property, shall be secured by this Deed of Trust, and shall be paid by Grantors upon demand, together with interest at the rate provided in the Note. No payment or other action by Beneficiary under this section shall impair any other right or remedy available to Beneficiary or constitute a waiver of any default.

1.15.2 If Grantors fail to promptly perform any of its obligations under Section 1.09 or 1.12 of this Deed of Trust, Beneficiary may require Grantors thereafter to pay and maintain with Beneficiary reserves for payment of such obligations. In that event, Grantors shall pay to Beneficiary each month a sum estimated by Beneficiary to be sufficient to produce, at least 20 days before due, an amount equal to the Impositions and/or insurance premiums. If the sums so paid are insufficient to satisfy any Imposition or insurance premium when due, Grantors shall pay any deficiency to Beneficiary upon demand. The reserves may be commingled with Beneficiary's other funds, and Beneficiary shall not be required to pay interest to Grantors on such reserves. Beneficiary shall not hold the reserve in trust for Grantors, and Beneficiary shall not be the agent of Grantors for payment of the taxes and assessments required to be paid by Grantors.

1.15.3 Unless Grantors provide Beneficiary with evidence of the insurance coverage required herein, Beneficiary may purchase insurance at Grantors' expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantors' interest. If the Trust Property becomes damaged, the coverage Beneficiary purchase may not pay any claim Grantors makes or any claim made against Grantors. Grantors may later cancel this coverage by providing evidence that Grantors has obtained property coverage elsewhere.

Grantors are responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to Grantors' loan balance. If the cost is added to Grantors' loan balance, the interest rate on the underlying loan will apply to this added amount. The effective date of coverage may be the date Grantors' prior coverage lapsed or the date Grantors failed to provide proof of coverage.

The coverage Beneficiary purchases may be considerably more expensive than insurance Grantors can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

1.16 Estoppel Certificates. Grantors, within five days of the request, shall furnish Trustee and Beneficiary a written statement, duly acknowledged, of the amount of the Obligations secured by this Deed of Trust and whether any offsets or defenses exist against such Obligations. If Grantors shall fail to furnish such a statement within the time allowed, Beneficiary shall be authorized, as Grantors' attorney-in-fact, to execute and deliver such statement.

ARTICLE II. CONDEMNATION

2.01 Condemnation

2.01.1 Should any part of or interest in the Trust Property be taken or damaged by reason of any public improvement, eminent domain, condemnation proceeding, or in any similar manner (a "Condemnation"), or should Grantors receive any notice or other information regarding such action, Grantors shall give immediate notice of such action to Beneficiary.

2.01.2 Beneficiary shall be entitled to all compensation, awards, and other payments or relief ("Condemnation Proceeds") up to the full amount of the Obligations, and shall be entitled, at its option, to commence, appear in, and prosecute any Condemnation proceeding in its own or Grantors' name and make any compromise or settlement in connection with such Condemnation. In the event the Trust Property is taken in its entirety by condemnation, all Obligations secured by this Deed of Trust, at Beneficiary's election, shall become immediately due and collectible.

2.01.3 Beneficiary may, at its sole option, apply the Condemnation Proceeds to the reduction of the Obligations in such order as Beneficiary may determine.

ARTICLE III. EVENTS OF DEFAULT; REMEDIES

3.01 Events of Default. Each of the following shall constitute an event of default under this Deed of Trust and under each of the other Loan Documents:

3.01.1 Nonpayment. Failure of Grantors to pay any of the Obligations on or before the due date.

3.01.2 Breach of Other Covenants. Failure of Grantors to perform or abide by any other covenant included in the Obligations, including without limitation those covenants in the Note, in this Deed of Trust, or in any other Loan Document.

3.01.3 Misinformation. Falsity when made in any material respect of any representation, warranty, or information furnished by Grantors or its agents to Beneficiary in or in connection with any of the Obligations.

3.01.4 Other Default. The occurrence of any other event of default under the Note or any of the other Obligations.

3.01.5 Other Indebtedness, Secondary Financing. Grantors' default beyond the applicable grace periods in the payment of any other indebtedness owed by Grantors to any person, if such indebtedness is secured by all or any portion of the Trust Property.

3.01.6 Bankruptcy. The occurrence of any of the following with respect to Grantors, any guarantor of the Obligations, or the then-owner of the Trust Property: (a) appointment of a receiver, liquidator, or trustee for any such party or any of its properties; (b) adjudication as a bankrupt or insolvent; (c) filing of any petition by or against any such party under any state or federal bankruptcy, reorganization, moratorium or insolvency law; (d) institution of any proceeding for dissolution or liquidation; (e) inability to pay debts when due; (f) any general assignment for the benefit of creditors; or (g) abandonment of the Trust Property.

3.01.7 Transfer; Due-on-Sale; Due-on-Encumbrance. Any sale, gift, conveyance, contract for conveyance, transfer, assignment, encumbrance, pledge, or grant of a security interest in all or any part of the Trust Property, or any interest therein, either voluntarily, involuntarily, or by the operation of law (a "Transfer"), without Beneficiary's prior written consent, shall constitute an event of default. For the purpose of clarification, and without limiting the generality of the foregoing, the occurrence at any time of any sale, conveyance, assignment, or other transfer of, or the grant of a pledge of or security interest in, any ownership of Grantors shall be deemed to be a Transfer in violation of this paragraph. The provisions of this subsection (7) shall apply to each and every Transfer, regardless of whether or not Beneficiary has consented or waived its rights in connection with any previous Transfer. Beneficiary may attach such conditions to Beneficiary's consent under this subsection (7) as Beneficiary may determine in its sole discretion, including without limitation an increase in the interest rate or the payment of transfer or assumption fees, and the payment of administrative and legal fees and costs incurred by Beneficiary.

3.02 Remedies in Case of Default. If an Event of Default shall occur, Beneficiary or Trustee may exercise any one or more of the following rights and remedies, in addition to any other remedies that may be available by law, in equity, or otherwise:

3.02.1 Acceleration. Beneficiary may declare all or any portion of the Obligations immediately due and payable.

3.02.2 Receiver. Beneficiary may have a receiver appointed for the Trust Property. Beneficiary shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the Trust Property exceeds the amount of the indebtedness secured by this Deed of Trust. Employment by Trustee or Beneficiary shall not disqualify a person from serving as receiver. Grantors consents to the appointment of a receiver at Beneficiary's option and waives any and all defenses to such an appointment.

3.02.3 Possession. Beneficiary may, either through a receiver or as lender-in-possession, enter and take possession of all or any part of the Trust Property and use, operate, manage, and control it as Beneficiary shall deem appropriate in Beneficiary's sole discretion. Upon request after an Event of Default, Grantors shall peacefully

relinquish possession and control of the Trust Property to Beneficiary or any receiver appointed under this Deed of Trust.

3.02.4 Rents. Beneficiary may revoke Grantors' right to collect the Rents, and may, either itself or through a receiver, collect the same. Beneficiary shall not be deemed to be in possession of the Property solely by reason of exercise of the rights contained in this subsection (4). If Rents are collected by Beneficiary under this subsection (4), Grantors hereby irrevocably appoints Beneficiary as Grantors' attorney-in-fact, with power of substitution, to endorse instruments received in payment thereof in the name of Grantors and to negotiate such instruments and collect Grantors' proceeds. After payment of all Obligations, any remaining amounts shall be paid to Grantors and this power shall terminate.

3.02.5 Power of Sale. Beneficiary may direct Trustee, and Trustee shall be empowered, to foreclose the Property by advertisement and sale under applicable law.

3.02.6 Foreclosure. Beneficiary may judicially foreclose this Deed of Trust and obtain a judgment foreclosing Grantors' interest in all or any part of the Property and giving Beneficiary the right to collect any deficiency remaining due after disposition of the Trust Property.

3.02.7 Abandonment. Beneficiary may abandon all or any portion of the Trust Property by written notice to Grantors.

3.03 Sale. In any sale under this Deed of Trust or pursuant to any judgment, the Trust Property, to the extent permitted by law, may be sold as an entirety or in one or more parcels and in such order as Beneficiary may elect, without regard to the right of Grantors, any person claiming under Grantors, or any guarantor or surety to the marshalling of assets. The purchaser at any such sale shall take title to the Trust Property or the part thereof so sold, free and clear of the estate of Grantors, the purchaser being hereby discharged from all liability to see to the application of the purchase money. Any person, including Beneficiary, Beneficiary's agents, and employees, may purchase at any such sale. Beneficiary is irrevocably appointed Grantors' attorney-in-fact, with power of substitution, to make all appropriate transfers and deliveries of the Trust Property or any portions thereof so sold and, for that purpose, Beneficiary may execute all appropriate instruments of transfer. Nevertheless, Grantors shall ratify and confirm, or cause to be ratified and confirmed, any such sale or sales by executing and delivering, or by causing to be executed and delivered, to Beneficiary or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of Beneficiary, for such purpose.

3.04 Cumulative Remedies. All remedies under this Deed of Trust are cumulative and not exclusive. Any election to pursue one remedy shall not preclude the exercise of any other remedy. An election by Beneficiary to cure under Section 1.15 shall not constitute a waiver of the default or of any of the remedies provided in this Deed of Trust. No delay or omission in exercising any right or remedy shall impair the full exercise of that or any other right or remedy or constitute a waiver of the default.

3.05 Receiver or Trustee-in-Possession. Upon taking possession of all or any part of the Trust Property, Trustee, Beneficiary, or a receiver may use, operate, manage, and control Trust Property and make expenditures for such purposes and for such maintenance and improvements as are deemed reasonably necessary.

3.05.1 Rents and Revenues. Collect all rents, revenues, income, issues, and profits from the Trust Property and apply such sums to the reasonable expenses of use, operation, management, maintenance, and improvements.

3.05.2 Construction. At its option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors, and make any changes in plans and specifications as it deems appropriate.

3.05.3 Additional Indebtedness. If the revenues produced by the Trust Property are insufficient to pay expenses, Beneficiary, Trustee, or the receiver may borrow or advance such sums upon such terms as it deems reasonably necessary for the purposes stated in this section. All advances shall bear interest, unless otherwise provided, at the rate set forth in the Note, and repayment of such sums shall be secured by this Deed of Trust.

3.06 Application of Proceeds. All proceeds realized from the exercise of the rights and remedies under this Section 5 shall be applied as follows:

3.06.1 Costs and Expenses. To pay all costs of exercising such rights and remedies, including the costs of maintaining and preserving the Trust Property, the costs and expenses of any receiver or lender-in-possession, the costs of any sale, and the costs and expenses provided for in Section 4.07 below.

3.06.2 Indebtedness. To pay all Obligations, in such order as Beneficiary shall determine in its sole discretion.

3.06.3 Surplus. The surplus, if any, remaining after satisfaction of all the Obligations shall be paid to the clerk of the court in the case of a judicial foreclosure proceeding, otherwise to the person or persons legally entitled to the surplus.

3.07 Waiver of Stay, Extension, Moratorium, and Valuation Laws. To the fullest extent permitted by law, Grantors waives the benefit of any existing or future stay, extension, or moratorium law that may affect observance or performance of the provisions of this Deed of Trust and any existing or future law providing for the valuation or appraisal of the Trust Property prior to any sale.

ARTICLE IV. GENERAL PROVISIONS

4.01 Time is of the Essence. Time is of the essence with respect to all covenants and obligations of Grantors under this Deed of Trust.

4.02 Reconveyance by Trustee. At any time upon the request of Beneficiary, payment of Trustee's fees, if any, and presentation of this Deed of Trust, without affecting liability of any persons for the payment of the Obligations, Trustee may reconvey, without warranty, all or any part of the Trust Property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals therein of any facts shall be conclusive proof of the truthfulness thereof.

4.03 Notice. Except as otherwise provided in this Deed of Trust, all notices pertaining to this Deed of Trust shall be in writing and may be delivered by hand, or mailed by first class, registered, or certified mail, return-receipt requested, postage prepaid, and addressed to the appropriate party at its address set forth as follows:

Grantors:	Trustee:	Beneficiary:
JAMES & SQUEAK MCGILVARY 4409 E. Langell Valley Road Bonanza, Oregon 97623	Fidelity National Title Company of Oregon 401 SW 4th Avenue Portland, OR 97204	PAUL LEWIS 12661 E. Langell Valley Road Bonanza, Oregon 97623

Any party may change its address for such notices from time to time by notice to the other parties. Notices given by mail in accordance with this paragraph shall be deemed to have been given upon the date of mailing; notices given by hand shall be deemed to have been given when actually received.

4.04 Substitute Trustee. In the event of dissolution or resignation of Trustee, Beneficiary may substitute one or more trustees to execute the trust hereby created, and the new trustee(s) shall succeed to all the powers and duties of the prior trustee(s).

4.05 Deed of Trust Binding on Successors and Assigns. To the extent permitted hereunder, this Deed of Trust shall be binding upon and inure to the benefit of the successors and assigns of Grantors, Trustee, and Beneficiary. If the Trust Property or any portion thereof shall at any time be vested in any person other than Grantors, Beneficiary shall have the right to deal with such successor regarding this Deed of Trust, the Trust Property, and the Obligations in such manner as Beneficiary deems appropriate in Beneficiary's sole discretion, without notice to or approval by Grantors and without impairing Grantors' liability for the Obligations.

4.06 Indemnity. Grantors shall hold Beneficiary and Trustee and their respective representatives harmless from and indemnify them for any and all claims, demands, damages, liabilities, and expenses, including but not limited to attorney fees and court costs, arising out of or in connection with Trustee's or Beneficiary's interest under this Deed of Trust, except Grantors shall not be liable for acts performed by Beneficiary or Trustee in violation of applicable law.

4.07 Expenses and Attorney Fees. If Beneficiary refers any of the Obligations to an attorney for collection or seeks legal advice following a default; if Beneficiary is the prevailing party in any litigation instituted in connection with any of the Obligations; or if Beneficiary or any other person initiates any judicial or nonjudicial action, suit, or proceeding in connection with any of the Obligations or the Trust Property (including but not limited to proceedings under federal bankruptcy law, eminent domain, under probate proceedings, or in connection with any state or federal tax lien), and an attorney is employed by Beneficiary to (1) appear in any such action, suit, or proceeding, or (2) reclaim, seek relief from a judicial or statutory stay, sequester, protect, preserve, or enforce Beneficiary's interests, then in any such event Grantors shall pay reasonable attorney fees, costs, and expenses incurred by Beneficiary or Beneficiary's attorney in connection with the above-mentioned events or any appeals related to such events, including but not limited to costs incurred in searching records, the cost of title reports, and the cost of surveyors' reports. Such amounts shall be secured by this Deed of Trust and, if not paid upon demand, shall bear interest at the rate specified in the Note.

4.08 Applicable Law. The Deed of Trust and the validity, interpretation, performance, and enforcement of the Deed of Trust shall be governed by the laws of the state of Oregon.

4.09 Captions. The captions to the sections and paragraphs of this Deed of Trust are included only for the convenience of the parties and shall not have the effect of defining, diminishing, or enlarging the rights of the parties or affecting the construction or interpretation of any portion of this Deed of Trust.

4.10 Person Defined. As used in this Deed of Trust, the word person shall mean any natural person, partnership, trust, corporation, or other legal entity of any nature.

4.11 Severability. If any provision of this Deed of Trust shall be held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Deed of Trust, and such other provisions shall be construed as if the invalid, illegal, or unenforceable provision had never been contained in the Deed of Trust.

4.12 Entire Agreement. This Deed of Trust contains the entire agreement of the parties with respect to the Trust Property. No prior agreement, statement, or promise made by any party to this Deed of Trust that is not contained herein shall be binding or valid.

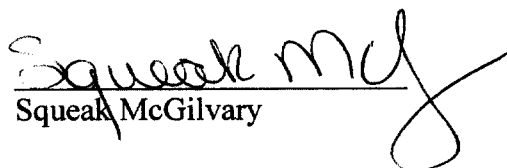
4.13 Commercial Property. Grantors covenants and warrants that the Property and Improvements are used by Grantors exclusively for business and commercial purposes.

4.14 Standard for Discretion

In the event this Deed of Trust is silent on the standard for any consent, approval, determination, or similar discretionary action, the standard shall be sole and unfettered discretion as opposed to any standard of good faith, fairness, or reasonableness.

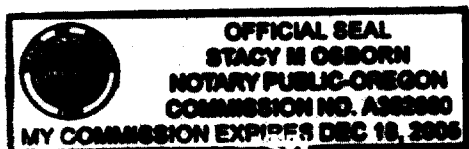
4.15 ORS 93.040 Warning. THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.


James McGilvary


Squeak McGilvary

STATE OF OREGON)
) ss.
County of KLAMATH)

On this 6th day of October, 2005, before me personally appeared James and Squeak McGilvary, who being duly sworn, and acknowledged the foregoing instrument to be the voluntary act and deed.



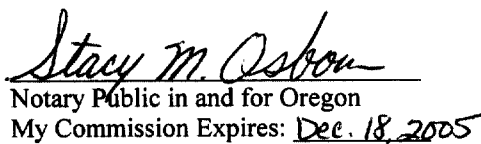

Notary Public in and for Oregon
My Commission Expires: Dec. 18, 2005

EXHIBIT "A" to Deed of Trust by

Dated October 6, 2005

Legal Description

The N ½ SE ¼ and the E ½ NE ¼ Section 13, Township 39 South, Range 11 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

SUBJECT TO:

1. Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Horsefly Irrigation District.
2. Rights of the public in and to any portion of said premises lying within the limits of roads and highways.
3. Rights of way, including the terms and provisions thereof, granted to the Pacific Power & Light, all recorded in Deed Records of Klamath County, Oregon, as follows:
 - a. Dated June 9, 1930, recorded July 12, 1930 in Book 91, page 467 (affects N ½ SE ¼ and E ½ NE ¼).
 - b. Dated June 28, 1941, recorded November 14, 1941 in Book 142 at page 459 (affects N ½ SE ¼).
 - c. Dated June 15, 1948, recorded June 22, 1948 in Book 222 at page 59 (affects SE ¼ NE ¼).
 - d. Dated March 22, 1954, recorded April 7, 1954 in Book 266 at page 275 (affects N ½ NE ¼, part of SE ¼ NE ¼ SE ¼ South and West of County Road).
5. As disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use. If the land becomes disqualified for this special assessment under the statutes, an additional tax plus interest and penalty will be levied for the number of years in which this special assessment was in effect for the land.

Tax Parcel Number: R601006 and R604279