

2010-006592

Klamath County, Oregon



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06/01/2010 03:03:31 PM

Fee: \$47.00

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| RETURN TO: Andrew C. Brandsness Brandsness, Brandsness & Rudd, P.C. 411 Pine Street Klamath Falls, OR 97601 | TAX STATEMENT TO Robert R. Smith Scott G. Smith P. O. Box 5383 Central Point, OR 97502 |
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1st 1570809

DEED IN LIEU OF FORECLOSURE - NO MERGER

THIS INDENTURE between Earl F. Fernlund and Carolyn L. Fernlund, hereinafter called Grantors, and Robert R. Smith and Scott G. Smith as joint tenants with rights of survivorship, hereinafter called Grantees:

The real property being conveyed is described in the attached Exhibit A situated in Klamath County, Oregon.

Grantors covenant that:

This deed is absolute in effect and conveys fee simple title of the premises described above to Grantees and does not operate as a mortgage, trust conveyance, or security of any kind.

Grantors are the owners of the premises free of all encumbrances except the trust deed executed to Grantees, dated January 29, 2009, and recorded on February 3, 2009, at Volume 2009 Page 001282, official records of Klamath County, Oregon, and the exceptions in the attached Exhibit B. The trust deed is in default.

This deed does not effect a merger of the fee ownership and the lien of the trust deed described above. The fee and lien shall hereafter remain separate and distinct.

The consideration of this transfer is the forbearance of foreclosure against Grantors and forbearance of an action on the debt against Grantors or a deficiency judgment against Grantors and the waiver of the Grantees' right to collect costs, disbursements and attorney's fees, as well as any deficiency balance due from the Grantors only.

By acceptance of this deed, Grantees covenant and agree that they shall forever forbear taking any action whatsoever to collect against Grantors on the promissory note given to secure the trust deed described above, other than by foreclosure of that trust deed, and that in any proceeding to foreclose the trust deed they shall not seek, obtain, or permit a deficiency judgment against Grantors, or their heirs or assigns, such rights and remedies being waived.

Grantors waive, surrender, convey, and relinquish any equity of redemption and statutory rights of redemption concerning the real property and trust deed described above. Grantors surrender possession of the real property to Grantees.

Grantors are not acting under any misapprehension as to the legal effect of this deed, nor under any duress, undue influence, or misrepresentation of Grantees, Grantees' agent or attorney, or any other person.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES 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, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352

IN WITNESS WHEREOF the Grantors above-named have executed this instrument.

DATED this 1 day of June, 2010.

Earl F. Fernlund

Earl F. Fernlund

Carolyn L. Fernlund

Carolyn L. Fernlund

STATE OF OREGON, County of Klamath) ss.

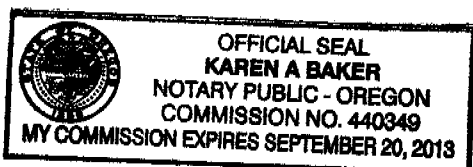
Personally appeared before me this 1 day of June, 2010, the above named Earl F. Fernlund and Carolyn L. Fernlund and acknowledged the foregoing instrument to be their voluntary act and deed.

Karen A Baker

Notary Public for Oregon

My Commission expires:

9-20-2013



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Exhibit "A"

Real property in the County of Klamath, State of Oregon, described as follows:

BEGINNING AT THE SECTION CORNER COMMON TO SECTION 29, 28, 32 AND 33, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON; THENCE SOUTH ALONG THE SECTION LINE 1346.72 FEET TO A POINT; THENCE NORTH 89° 13' EAST 499.28 FEET TO A 3/8" IRON PIPE AS PER RECORDED SURVEY NO. 328 IN 1964 BY ARCHIE D. CORZATT; THENCE SOUTH 18° 59' EAST 640.20 FEET TO A POINT; THENCE SOUTH 40° 11' EAST 387.80 FEET TO A POINT; THENCE SOUTH 27° 58' 20" EAST 452.15 FEET TO A POINT; HENCEFORTH REFERRED TO AS POINT NO. 1 WHICH IS THE POINT OF BEGINNING; THENCE SOUTH 27° 58' 20" EAST 252.20 FEET TO A POINT; THENCE SOUTH 82° 57' 20" EAST 831.95 FEET TO A POINT; THENCE SOUTH 32° 08' 20" EAST 633.45 FEET TO A POINT; THENCE SOUTH 70° 52' 40" EAST 384.80 FEET TO A POINT; THENCE SOUTH 20° 04' 40" EAST 363.00 FEET TO A POINT; THENCE WEST ALONG THE 1/16 LINE 1573.0 FEET TO A POINT; THENCE SOUTH TO A POINT WHICH IS THE SOUTHWEST 1/16 CORNER OF SECTION 33; THENCE WEST ALONG THE SOUTH SECTION LINE OF SECTION 33 TO A POINT THAT IS 1030 FEET EAST OF THE SECTION CORNER OF SECTIONS 32, 33, 4 AND 5, TOWNSHIP 39 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN AND TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN; THENCE NORTH 460.0 FEET TO A POINT; THENCE WEST 500.00 FEET TO A POINT; THENCE NORTH 882.29 FEET TO A POINT; THENCE WEST 530.00 FEET TO A POINT ON THE WEST LINE OF SECTION 33 THAT IS 1342.29 FEET NORTH OF THE SECTION CORNER OF SECTIONS 32, 33, 5 AND 4, TOWNSHIP 39 SOUTH, RANGE 9 AND TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE MERIDIAN; THENCE NORTH ALONG THE WEST SECTION LINE OF SECTION 33 TO A POINT THAT IS THE WEST QUARTER CORNER OF SECTION 33; THENCE EAST ALONG THE QUARTER LINE TO POINT NO. 1 WHICH IS THE POINT OF BEGINNING.

SAVING AND EXCEPTING ANY PORTION LYING WITHIN ANY ROADS OR HIGHWAYS.

FURTHER EXCEPTING THAT PORTION DEEDED TO CHAVEZ IN DEED VOLUME 69 ON PAGE 344-1 AND DEED VOLUME 69, PAGE 344-3, RECORDS OF KLAMATH COUNTY, OREGON.

ALSO FURTHER EXCEPTING THAT PORTION DEEDED TO KLAMATH IRRIGATION DISTRICT IN DEED VOLUME M78 ON PAGE 29044, MICROFILM RECORDS OF KLAMATH COUNTY, OREGON.

LESS THAT PORTION DEED TO THE UNITED STATES OF AMERICA FOR THE NO. 20-E DRAIN, RECORDED JANUARY 9, 1933 IN BOOK 99 AT PAGE 332, DEED RECORDS OF KLAMATH COUNTY, OREGON.

Tax Parcel Number: R586547

EXHIBIT B

1. Matters not disclosed by an examination of the public record.
2. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
3. Liens and assessments of Klamath Project and Klamath Irrigation District, and regulations, contracts, easements, water and irrigation rights in connection therewith.
4. Any unpaid charges or assessments of the Klamath Irrigation District.
5. Rules, regulations, liens, assessments, contracts, rights of way, easements, and any and all obligations created or imposed upon or affecting said premises by the Klamath Basin Improvement District, and any unpaid charges or assessments in connection therewith.
6. Easement, including terms and provisions contained therein:
 Recording Information: December 02, 1941 in Volume 143 Page 43, Deed Records of Klamath County, Oregon
 In Favor of: The California Oregon Power Company
 For: powerline
7. Easement, including terms and provisions contained therein:
 Recording Information: October 08, 1965 in Volume M65 Page 2439, Deed Records of Klamath County, Oregon
 In Favor of: Pacific Power & Light Co.
 For: powerline
8. Reservations and Restrictions in deed from John T. Taylor and California Scott Taylor, husband and wife to Donald Edward Johnson, et ux, dated November 02, 1964, recorded August 14, 1974 in Volume M74 Page 9920, Deed Records of Klamath County, Oregon, as follows: "Together with the perpetual easement at two locations to be selected by grantees to install pumps in the U.S.R.S. C-4 and C-K-4 laterals and operate the same and conduct water therefrom over adjoining lands of grantors to the granted premises.
9. Reservations as disclosed in Easement, between Klamath Irrigation District and California Scott Taylor, et al, dated December 14, 1978, recorded December 29, 1978 in Volume M78 Page 29046, Deed Records of Klamath County, Oregon.
10. Easement, including terms and provisions contained therein:
 Recording Information: April 29, 1981 in Volume M81 Page 7629 and re-recorded November 30, 1981 in Volume M81 Page 20607, Deed Records of Klamath County, Oregon
 Between: Robert T. Bond and William M. Bond and J. Marie Bond
 For: well use and maintenance
11. Easement, including terms and provisions contained therein:
 Recording Information: September 24, 1999 in Volume M99 Page 38090, Records of Klamath County, Oregon
 Between: Daron S. Newman and Quincy Newman and Earl F. Fernlund and Carolyn L. Fernlund
 For: irrigation ditch across property
12. Easement, as shown in Deed, including terms and provisions contained therein:
 Recording Information: January 13, 2000 in Volume M00 Page 1256, records of Klamath County, Oregon
 From: William M. Bond, L. Marie Bond and Robert T. Bond
 To: Daron S. Newman and Kevin D. Newman, as tenants in common
 For: 60 foot easement ingress and egress and utility purposes, 30 feet on each side of the described center line
13. Deed of Trust and the terms and conditions thereof.
 Grantor/Trustor: Earl F. Fernlund and Carolyn L. Fernlund
 Grantee/Beneficiary: Robert R. Smith and Scott G. Smith as joint tenants with rights of survivorship
 Trustee: Lawyers Title Insurance Corporation, a Nebraska corporation
 Amount: \$193,000.00
 Recorded: February 03, 2009
 Recording Information: Volume 2009 Page 001282, Records of Klamath County, Oregon
 * Re-recorded May 11, 2010 as 2010-5613, records of Klamath County, Oregon
14. Notice of Lien
 Recorded: May 11, 2010
 Recording No.: 2010-5613
 Records of: Klamath County, Oregon
 Lien Claimant: Klamath Irrigation District