

2018-002694

Klamath County, Oregon

03/12/2018 02:49:01 PM

Fee: \$62.00



AFTER RECORDING PLEASE  
RETURN TO:

David W. Criswell  
Lane Powell PC  
601 SW Second Avenue, Suite 2100  
Portland, OR 97204  
(503) 778-2100

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NOTICE OF DEFAULT AND ELECTION TO SELL

DEED OF TRUST AND PROPERTY DESCRIPTION:

This instrument makes reference to that certain Line of Credit Instrument/Line of Credit Deed of Trust ("Deed of Trust") dated October 15, 2014, and recorded on October 22, 2014, as instrument number 2014-011069, in the real property records of Klamath County, Oregon, wherein MALIN POTATO COOPERATIVE, INC., an Oregon cooperative corporation, is the Grantor, AMERITITLE is the original Trustee, and WASHINGTON FEDERAL is the Beneficiary (the "Deed of Trust"). The aforementioned Deed of Trust covers property (the "Property") described as:

PARCEL A:

All of Lots 1 and 8, Block 4 and those portions of Lots 2 and 7, Block 4 of the ORIGINAL TOWN OF MERRILL, according to the official plat thereof on file in the office of the County Clerk, Klamath County, Oregon, together with a portion of the alley in said Block 4, lying Northerly of a line drawn parallel with and distant 8.5 feet Northerly, as measured at right angles from the Burlington Northern and Santa Fe Railway Company's (formerly Great Northern Railway Company) most Northerly spur tract centerline, as now located and constructed upon, over and across said Block 4, bounded on the North by the South line of Fourth Street, bounded on the West by the East line of Main Street, and

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bounded on the East by the centerline of vacated Washington Street, all according to the recorded plat of the Original Town of Merrill, Oregon.

PARCEL B:

That portion of the Burlington Northern and Sante Fe Railway Company's (formerly Great Northern Railway Company) Station Ground Property as Merrill, Oregon being of variable widths on each side of Said Railway Company's Main Tract centerline as now located and constructed upon, over and across the SW1/4 SW1/4 of Section 1, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon lying between the South line of Fourth Street, according to the recorded plat of MERRILL thereof, and line drawn parallel with and distant 105.0 feet Southerly of, as measured at right angles from said South line of Fourth Street, and bounded between two lines drawn parallel with and distant, respectively, 560.0 feet and 710.00 feet Easterly of the East line of Main Street, according to said recorded plat thereof, as measured along said South line of Fourth Street.

PARCEL C:

That portion of the N1/2 SE1/4 SW1/4 of Section 1, Township 41 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, lying Northerly of a line drawn parallel with and distant 50.0 feet Northerly as measured at right angles from the Burlington Northern and Sante Fe Railway Company's (formerly Great Northern Railway Company) Main Tract centerline as now located and constructed upon, over and across said Section 1, and lying Westerly of a line drawn parallel with the distant 450.0 feet Easterly, as measured at right angles from the West line of said N1/2 SE1/4 SW1/4.

PARCEL D:

Parcel 2 of Land Partition 16-14, situated in the N1/2 SW1/4 of Section 1, Township 41 South, Range 10 East of the Willamette Meridian, recorded September 18, 2014 in Volume 2014-009711, Microfilm Records of Klamath County, Oregon.

The undersigned hereby certifies that he has no knowledge of any assignments of the Deed of Trust by the Trustee or by the Beneficiary or any appointments of a Successor Trustee other than the appointment of DAVID W. CRISWELL, as Successor Trustee as recorded in the

property records of the county in which the Property described above is situated. Further, the undersigned certifies that no action has been instituted to recover the debt, or any part thereof, now remaining secured by the Deed of Trust. Or, if such action has been instituted, it has been dismissed except as permitted by ORS 86.752(7).

The name and address of the Successor Trustee are as follows:

David W. Criswell  
Successor Trustee  
Lane Powell PC  
601 SW Second Avenue, Suite 2100  
Portland, OR 97204

The Deed of Trust is not a "Residential Trust Deed", as defined in ORS 86.705(6), thus the requirements of Chapter 304 [S.B. 558], Oregon Laws 2013, Chapter 112 [S.B. 1552], Section 4a, Oregon Laws 2012, and ORS 86.771(10) do not apply.

#### DEFAULT BY GRANTOR:

There are continuing and uncured defaults by Malin Potato Cooperative, Inc. (the "Grantor") that, based on the provisions of the Deed of Trust and the loan documents executed in favor of Washington Federal ("Beneficiary") for Loan No. 4512877, including the promissory note dated and effective as of October 15, 2014 ("Note"), authorize the foreclosure of the Deed of Trust and the sale of the Property described above, which uncured and continuing defaults include but are not necessarily limited to the following:

1. Grantor's failure to pay to Beneficiary, when and in the full amounts due, monthly installments as set forth on the Note secured by said Deed of Trust. Monthly installments in the amount of \$48,460.31 include principal and interest. The Grantor failed to make payments on this loan due on January 1, 2018 and February 1, 2018, and has advised that Grantor has ceased business operations and will not be making any further payments to the Beneficiary. Late charges and EZ cancellation charges through and including February 23, 2018 total \$5,346.04. Interest due as of (i.e., through and including) February 23, 2018 is in the amount of \$69,711.86 and continues to accrue at the rate of four and 95/100 percent (4.95%) per annum or \$784.68 per diem. ALL AMOUNTS are now due and payable along with all costs and fees associated with this foreclosure.

2. Grantor also failed to pay real property taxes due to Klamath County, Oregon for 2015-2016, 2016-2017, and 2017-2018, which created liens which primed and were senior to the lien of the Deed of Trust. Beneficiary made a protective advance on Grantor's behalf to Klamath County, Oregon on February 23, 2018 in the amount of \$249,746.39 to pay in full all delinquent taxes on the Property for tax years 2015-2016, 2016-2017, and 2017-2018. Grantor is obligated under the Deed of Trust to pay Lender \$249,746.39 plus interest at the rate of four and 95/100 percent (4.95%) per annum from and after February 23, 2018 on account of such protective advance.

TOTAL UNCURED MONETARY (PAYMENT) DEFAULT:

By reason of said uncured and continuing defaults, the Beneficiary has accelerated and declared all sums owing on the obligation secured by the Deed of Trust and the Property immediately due and payable. The sums due and payable being the following:

Unpaid principal amount due and owing under the Note as of February 23, 2018:	\$5,457,006.77 <sup>1</sup>
Unpaid interest owing under the Note as of February 23, 2018:	\$69,711.86
Late charges and EZ cancellation charge to February 23, 2018:	\$5,346.04
Protective Advance for Real Property Taxes as of February 23, 2018:	\$249,746.39
TOTAL DUE:	\$5,781,811.06

Accordingly, the sum owing on the obligation secured by the Deed of Trust is \$5,781,811.06, as of February 23, 2018, together with interest accruing on the principal portion of that amount, plus additional costs and expenses incurred by Beneficiary and/or the Successor Trustee (including their respective attorney's fees, costs, and expenses).

ELECTION TO SELL:

Notice is hereby given that the Beneficiary, by reason of the uncured and continuing defaults described above, has elected and does hereby elect to foreclose said Deed of Trust by advertisement and sale pursuant to ORS 86.752 *et seq.*, and to cause to be sold at public auction to the highest bidder for cash, the Grantor's interest in the subject Property, which the Grantor had, or had the power to convey, at the time the Grantor executed the Deed of Trust in favor of the Beneficiary, along with any interest the Grantor or the Grantor's successors in interest acquired after the execution of the Deed of Trust, to satisfy the obligations secured by the Deed of Trust as well as the expenses of the sale, including compensation of the Trustee as provided by law, and the reasonable fees of Trustee's attorneys.

PLEASE TAKE NOTICE that the sale will be held at the hour of 11:00 a.m., in accordance with the standard of time established by ORS 187.110, on July 30, 2018, on the front steps of the main entrance to the Klamath County Courthouse, at 316 Main Street, Klamath Falls, Oregon 97601.

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<sup>1</sup> Balance prior to the addition of the 2/23/18 protective advance for taxes.

RIGHT OF REINSTATEMENT:

Notice is further given that any person named in ORS 86.778 has the right, at any time prior to five (5) days before the date last set for the sale, to have this foreclosure proceeding dismissed and the Deed of Trust satisfied by (A) 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, together with the costs and expenses actually incurred in enforcing the terms of the obligation, as well as Successor Trustee and attorney fees as prescribed by ORS 86.778); and (B) by curing all such other continuing and uncured defaults as noted in this Notice.

NOTICE REQUIRED UNDER ORS 86.771(9):

Without limiting the Successor Trustee's disclaimer of representations or warranties, Oregon law requires the Successor Trustee to state in this notice that some residential property sold at a trustee's sale may have been used in manufacturing methamphetamines, the chemical components of which are known to be toxic. Prospective purchasers of residential property should be aware of this potential danger before deciding to place a bid for this property at the trustee's sale.

DATED: March 9, 2018.

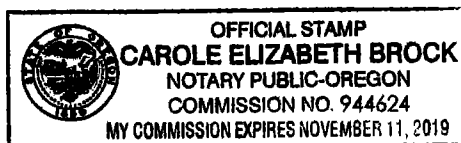
By: \_\_\_\_\_

*D W Criswell*

David W. Criswell, OSB 925930  
Successor Trustee  
Lane Powell PC  
601 SW Second Avenue, Suite 2100  
Portland, OR 97204  
Telephone: (503) 778-2100  
Facsimile: (503) 778-2200  
Email: CriswellD@LanePowell.com

STATE OF OREGON            )  
  ) ss.  
County of Multnomah        )

On March 9, 2018, the above named David W. Criswell personally appeared before me and acknowledged the foregoing instrument to be his voluntary act and deed.



*Ch S A*

Notary Public for Oregon

My Commission Expires: 11/11/2019