

TC

38-10874

14395

Vol. 76 Page

8024

THIS MORTGAGE, Made this 28 day of May, 1976,  
by Edward I. Mitchell and Carolyn S. Mitchell as tenants by the  
entirety  
to Albert W. Schmeck and Veda H. Schmeck Mortgage.

WITNESSETH, That said mortgagor, in consideration of Five thousand and no/100  
(\$5,000.00) Dollars, to him paid by said mortgagee, does hereby  
grant, bargain, sell and convey unto said mortgagee, his heirs, executors, administrators and assigns, that certain real  
property situated in Klamath County, State of Oregon, bounded and described as follows, to-wit:

See Attached EXHIBIT A

For further clauses to be incorporated within this mortgage, see Attached EXHIBIT B

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and which may hereafter thereto belong or appertain, and the rents, issues and profits therefrom, and any and all fixtures upon said premises at the time of the execution of this mortgage or at any time during the term of this mortgage

TO HAVE AND TO HOLD the said premises with the appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns forever.

This mortgage is intended to secure the payment of 2 promissory note, of which the following is a substantial copy:

\$ 5,000.00      Klamath Falls      , Oregon      May 28      , 1976

I (or if more than one maker) we, jointly and severally, promise to pay to the order of  
Albert W. Schmeck and Vada H. Schmeck <sup>WHS</sup>

Five thousand and no/100 . . . . . at Klamath Falls, Oregon

Five thousand and no/100 - - - - - DOLLARS,  
with interest thereon at the rate of 10 percent per annum from date until paid, payable in  
quarterly installments of not less than \$ 416.67 in any one payment; interest shall be paid quarterly and

\* In addition to the minimum payments above required; the first payment to be made on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and a like payment on the \_\_\_\_\_ day of \_\_\_\_\_ thereafter, until the whole sum, principal and interest has been paid; if any of said installments is not so paid, all principal and interest to become immediately due and collectible at the option of the holder of this note. If this note is placed in the hands of an attorney for collection, I/we promise and agree to pay holder's reasonable attorney's fees and collection costs, even though no suit or action is filed hereon; however, if a suit or an action is filed, the amount of such reasonable attorney's fees shall be fixed by the court, or courts in which the suit or action, including any appeal therein, is tried, heard or decided.

\* Strike words not applicable.

/s/ Edward I. Mitchell

/s/ Carolyn S. Mitchell

Payment of interest only quarterly  
for the first two years and thereafter  
equal payments of principal in the amount  
of \$416.67 plus interest quarterly until  
paid in full.

FORM No. 217—INSTALLMENT NOTE.

SN Stevens-Ness Law Publishing Co., Portland, Ore

The date of maturity of the debt secured by this mortgage is the date on which the last scheduled principal payment becomes due, to-wit: May 28, 1981.

The mortgagor warrants that the proceeds of the loan represented by the above described note and this mortgage are:

(a)\* *primarily for mortgagor's personal, family, household or agricultural purposes (see Important Notice below)*

[illegible]

This mortgage is inferior, secondary and made subject to a prior mortgage on the above described real estate made by  
Edward I. Mitchell  
The Federal Land Bank of Spokane, a corporation dated August 25  
to in Spokane, Washington  
1975, and recorded in the mortgage records of the above named county in book M-75, at page 11835, thereof, or as  
file number , reel number (indicate which), reference to said mortgage records  
hereby being made; the said first mortgage was given to secure a note for the principal sum of \$ 50,000.00, the unpaid  
principal balance thereof on the date of the execution of this instrument is \$ 50,000.00 and no more; interest thereon is paid  
to January 1, 1976; said prior mortgage and the obligations secured thereby hereinafter, for brevity, are called  
simply "first mortgage".

The mortgagor covenants to and with the mortgagee, his heirs, executors, administrators and assigns, that he is lawfully seized in fee simple of said premises; that the same are free from all encumbrances except said first mortgage and further except **SUBJECT TO** contracts and/or liens for irrigation and/or drainage, and reservations **the land** easements, restrictions and rights of way of record and those apparent on the map or maps of record, and that he will warrant and forever defend the same against all persons; further, that he will do and perform all things required of him and pay all obligations due or to become due under the terms of said first mortgage as well as the note secured hereby, principal and interest, according to the terms thereof; that while any part of the note secured hereby remains unpaid he will pay all taxes, assessments and other charges of every nature which may be levied or assessed against said property, or this mortgage or the note secured hereby, when due and payable and before the same become delinquent; that he will promptly pay and satisfy any and all liens or encumbrances that are or may become liens on the premises or any part thereof superior to the lien of this mortgage; that he will keep the buildings now on or which hereafter may be erected on the said premises continuously insured against loss or damage by fire



and each other hazards as the mortgagee may from time to time require, in an amount not less than \$ \_\_\_\_\_ in a company or companies acceptable to the mortgagee herein, with loss payable, first to the holder of the said first mortgage; second, to the mortgagee named herein and then to the mortgagor as their respective interests may appear; all policies of insurance shall be delivered to the holder of the said first mortgage as soon as insured and a certificate of insurance executed by the company in which said insurance is written, showing the amount of said coverage, shall be delivered to the mortgagee named in this instrument. Now if the mortgagor shall fail for any reason to procure any such insurance and to deliver said policies as aforesaid at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on said buildings, the mortgagee may procure the same at mortgagor's expense; that the mortgagor will keep the buildings and improvements on said premises in good repair and will not commit or suffer any waste of said premises. In the event any personal property is part of the security for this mortgage, then at the request of the mortgagee, the mortgagor shall join with the mortgagee in executing one or more financing statements pursuant to the Uniform Commercial Code, the form satisfactory to the mortgagee, and will pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the mortgagee.

Now, therefore, if said mortgagor shall keep and perform the covenants herein contained and shall pay all obligations secured by said first mortgage as well as the note secured hereby according to its terms, this conveyance shall be void, but otherwise shall remain in full force as a mortgage to secure the performance of all of said covenants and the payments of the note secured hereby; it being agreed that a failure to perform any covenant herein, or if a proceeding of any kind be taken to foreclose any lien on said premises or any part thereof, the mortgagee shall have the option to declare the whole amount unpaid on said note or on this mortgage at once due and payable, and this mortgage may be foreclosed at any time thereafter. And if the mortgagor shall fail to pay any taxes or charges or any lien, encumbrance or insurance premium as above provided for, or fail to do or perform anything required of him by said first mortgage, the mortgagee herein, at his option, shall have the right to make such payments and to do and perform the acts required of the mortgagor under said first mortgage; and any payment so made, together with the cost of such performance shall be added to and become a part of the debt secured by this mortgage, and shall bear interest at the same rate as the note secured hereby without waiver, and all sums paid by the mortgagee at any time while the mortgagor neglects to repay any sums so paid by the mortgagee. In the event of any suit or action being instituted to foreclose this mortgage, the mortgagor agrees to pay all reasonable costs incurred by the mortgagee for title reports and title search, all statutory costs and disbursements and such further sum as the trial court may adjudge reasonable as plaintiff's attorney's fees in such suit or action, and if an appeal is taken from any judgment or decree entered therein, mortgagor further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal, all such sums to be secured by the lien of this mortgage and included in the decree of foreclosure.

Each and all of the covenants and agreements herein contained shall apply to and bind the heirs, executors, administrators and assigns of said mortgagor and of said mortgagee respectively.

In case suit or action is commenced to foreclose this mortgage, the Court may, upon motion of the mortgagee, appoint a receiver to collect the rents and profits arising out of said premises during the pendency of such foreclosure, and apply the same, after first deducting all of said receiver's proper charges and expenses, to the payment of the amount due under this mortgage.

In construing this mortgage, it is understood that the mortgagor or mortgagee may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said mortgagor has hereunto set his hand the day and year first above written.

*Edward I. Mitchell*  
*Carolyn S. Mitchell*

\*IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable. If warranty (a) is applicable and if the mortgagee is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the mortgagee MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Ness Form No. 1306 or similar.

## SECOND MORTGAGE

(FORM No. 925)

TO

STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book \_\_\_\_\_ on page \_\_\_\_\_ file/reel number \_\_\_\_\_ or as \_\_\_\_\_  
 Record of Mortgages of said County.  
 Witness my hand and seal of County affixed.

Title \_\_\_\_\_

By \_\_\_\_\_

Deputy \_\_\_\_\_

STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

*Return to  
 Equivox & Benin  
 110 N. 6th  
 Astoria*

STATE OF OREGON,

County of Klamath } ss.

BE IT REMEMBERED, That on this 28 day of May, 1976, before me, the undersigned, a notary public in and for said county and state, personally appeared the within named Edward I. Mitchell and Carolyn S. Mitchell

known to me to be the identical individual(s) described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

*Dwain Kay Way*  
 Notary Public for Oregon.  
 My Commission expires 6/15/77



8026

The following described real property in Klamath County, Oregon.

All that portion of the E $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 34, Township 39 South, Range 9 East of the Willamette Meridian, described as follows:

Beginning at the Southeast corner of SE $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 34, running thence Westerly along the South line of Section 34, 640 feet; thence North 20° 40' West 31.5 feet; thence North 2° 50' East 754 feet; thence North 50° 49' West 175 feet; thence North 2° 53' West 325 feet; thence North 11° East 530 feet, more or less, to a point in the center line of the U.S.R.S. C-4 Canal; thence along the center line of said Canal South 88° East 670 feet, more or less, to a point in the East line of the NE $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 34 at a point 1725 feet North of the point of beginning; thence South 1725 feet to the point of beginning.

LESS AND EXCEPTING rights of way for irrigation ditches, drain ditches and county roads.

EXHIBIT A

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., n.

dually recorded in Vol. \_\_\_\_\_, of \_\_\_\_\_ on Page \_\_\_\_\_

Wm D. MILNE, County Clerk

By \_\_\_\_\_



8027

If a breach or default occurs on the first mortgage hereinabove described, it shall be a breach of this mortgage.

If the mortgagor herein sells, transfers or assigns this property, the principal balance plus any accrued interest will be due in full on the date of said transfer or assignment.

In the event of a default, mortgagee shall be entitled to the appointment of a receiver as a matter of right, whether or not apparent value of the property herein exceeds the amount of the balance due herein stated, and any receiver appointed may serve without bond. Employment by the mortgagee shall not disqualify a person from serving as receiver. Upon taking possession of all or any part of the property the receiver may:

1. Use, operate, manage, control and conduct business on the property and make expenditures for all maintenance and improvements as in its judgments are proper;

2. Collect all rents, revenues, incomes, issues and profits from the property and apply such sums to the expenses of use, operation and management;

3. At mortgagee's 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 or specifications as mortgagee deems appropriate.

If the revenues produced by the property are insufficient to pay expenses, the receiver may borrow, from the mortgagee or otherwise, such sums as it deems necessary for the purposes stated in this paragraph, and repayment of such sums shall be secured by this mortgage. The amounts borrowed or advanced shall bear interest at the same rate as the balance of the purchase price herebefore stated and from the date of expenditure until repaid and shall be payable by mortgagor on demand.

EXHIBIT B

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record and index of \_\_\_\_\_ 4:42  
his 28th day of May A. D. 1976 at \_\_\_\_\_ o'clock P. M., and  
tuly recorded in Vol. M. 76 of MORTGAGES on Page 8024

FEE \$ 12.00

Wm D. MILNE, County Clerk  
By *[Signature]*