

Aspen 23046

REAL ESTATE MORTGAGE FOR OREGON

23029

Vol. 1190 Page 23573

THIS MORTGAGE is made and entered into by

RICHARD R. RODGERS AND CHARLOTTE D. RODGERS

residing in KLAMATH County, Oregon, whose post office

address is Route 5, Box 1146-X, Klamath Falls, Oregon 97601,
herein called "Borrower," and the United States of America, acting through the Farmers Home Administration, United
States Department of Agriculture, whose mailing address is 2455 Patterson ST., Suite 1
Klamath Falls Oregon 97603, herein called the "Government," and,

WHEREAS Borrower is indebted to the Government, as evidenced by one or more promissory note(s) or assumption
agreement(s) or any shared appreciation or recapture agreement, herein called "note," which has been executed by Borrower,
is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Govern-
ment upon any default by Borrower, and is described as follows:

Date of Instrument

October 18, 1990

Principal Amount

\$113,577.75

Due Date of Final
Installment

October 18, 2000

(The interest rate for limited resource farm ownership or limited resource operating loan(s) secured by this instrument
may be increased as provided in the Farmers Home Administration regulations and the note.)

And the note evidences a loan to Borrower, and the Government, at any time, may assign the note and insure the
payment thereof pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949, or
any other statutes administered by the Farmers Home Administration;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the
Government, or in the event the Government should assign this instrument without insurance of the note, this instrument
shall secure payment of the note; but when the note is held by an insured holder, this instrument shall not secure payment
of the note or attach to the debt evidenced thereby, but as to the note and such debt shall constitute an indemnity mortgage
to secure the Government against loss under its insurance contract by reason of any default by Borrower;

And this instrument also secures the recapture of any interest credit or subsidy which may be granted to the Borrower
by the Government pursuant to 42 U.S.C. §1490a and any amounts due under any Shared Appreciation Agreement/Re-
capture Agreement entered into pursuant to 7 U.S.C. 2001.

NOW THEREFORE, in consideration of the loan(s) and (a) at all times when the note is held by the Government, or
in the event the Government should assign this instrument without insurance of the payment of the note, to secure prompt
payment of the note and any renewals and extensions thereof and any agreements contained therein, (b) at all times when the
note is held by an insured holder, to secure performance of Borrower's agreement herein to indemnify and save harmless
the Government against loss under its insurance contract by reason of any default by Borrower, and (c) in any event and at
all times to secure the prompt payment of all advances and expenditures made by the Government, with interest, as herein-
after described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary
agreement, Borrower does hereby grant, bargain, sell, convey, mortgage, and assign with general warranty unto the Govern-

ment the following property situated in the State of Oregon, County(ies) of

KLAMATH

SEE ATTACHMENT A FOR LEGAL DESCRIPTION

together with all rights (including the right to mining products, gravel, oil, gas, coal or other minerals), interests, easements, hereditaments and appurtenances thereunto belonging, the rents, issues, and profits thereof and revenues and income therefrom (including any Government payments contingent on an agreement to restrict the use of the land), all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, irrigation systems, including pumps, motors, electrical panels, pipe, sprinklers, and other accessories pertaining thereto; milking, milk handling, and milk storage systems, and other accessories pertaining thereto; manure handling systems; live-stock feeding systems; ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, whether or not attached to the real estate; all water, water rights, water certificates, water permits, water allotments, and water stock pertaining thereto, no matter how evidenced; and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto the Government and its assigns forever in fee simple.

IN ADDITION to its other rights, the Government is hereby granted a security interest in the above-described property pursuant to ORS 79.1010 - 79.5070.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS THE TITLE to the property to the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

- (1) To pay promptly when due any indebtedness to the Government hereby secured and to indemnify and save harmless the Government against any loss under its insurance of payment of the note by reason of any default by Borrower. At all times when the note is held by an insured holder, Borrower shall continue to make payments on the note to the Government, as collection agent for the holder.
- (2) To pay to the Government such fees and other charges as may now or hereafter be required by regulations of the Farmers Home Administration.
- (3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges upon the mortgaged premises.
- (4) Whether or not the note is insured by the Government, the Government may at any time pay any other amounts including advances for payment of prior and/or junior liens, required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for Borrower's account. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.
- (5) All advances by the Government, including advances for payment of prior and/or junior liens, in addition to any advances required by the terms of the note, as described by this instrument, with interest shall be immediately due and payable by Borrower to the Government without demand at the place designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in any order the Government determines.
- (6) To use the loan evidenced by the note solely for purposes authorized by the Government.
- (7) To pay when due all taxes, liens, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, including all charges and assessments in connection with water, water rights, and water stock pertaining to or reasonably necessary to the use of the real property described above, and promptly deliver to the Government without demand receipts evidencing such payments.
- (8) To keep the property insured as required by and under insurance policies approved by the Government and, at its request, to deliver such policies to the Government.
- (9) To maintain improvements in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with such farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not to abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.
- (10) To comply with all laws, ordinances, and regulations affecting the property.
- (11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default), including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorneys' fees, trustees' fees, court costs, and expenses of advertising, selling, or conveying the property.

(12) Except as otherwise provided in the Farmers Home Administration regulations, neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, or encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as mortgagee hereunder, including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction, and no insured holder shall have any right, title or interest in or to the lien or any benefits hereof. All rents, profits, and income, including any amounts arising out of an agreement by which the Borrower substantially reduces its use of the property in return for payments, are hereby assigned to the Government for the purpose of discharging the debt hereby secured. Permission is hereby given to the Borrower, so long as no default exists hereunder, to collect such rents, profits and income for use in accordance with the provisions of the borrower's agreement with Farmers Home Administration and the applicable regulations.

(13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.

(14) The Government may (a) adjust the interest rate, payment, terms or balance due on the loan, (b) increase the mortgage by an amount equal to deferred interest on the outstanding principal balance, (c) extend or defer the maturity of, and renew and reschedule the payments on, the debt evidenced by the note or any indebtedness to the Government secured by this instrument, (d) release any party who is liable under the note or for the debt from liability to the Government, (e) release portions of the property and subordinate its lien, and (f) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government—whether once or often—in exercising any right or remedy under this instrument, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

(15) If at any time it shall appear to the Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon the Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate or crop or chattel security instrument held or insured by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in the performance or discharge of any obligation in this instrument or secured by this instrument, or should any one of the parties named as Borrower die or be declared an incompetent, a bankrupt, or an insolvent, or make an assignment for the benefit of creditors, the Government, at its option, with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, (d) foreclose this instrument as provided herein or by law, and (e) enforce any and all other rights and remedies provided herein or by present or future law.

(18) The proceeds of foreclosure sale shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to or insured by the Government, and (f) any balance to Borrower. At foreclosure or other sale of all or any part of the property, the Government and its agents may bid and purchase as a stranger and may pay the Government's share of the purchase price by crediting such amount on any debts of Borrower owing to or insured by the Government, in the order prescribed above.

(19) Borrower agrees that the Government will not be bound by any present or future laws, (a) providing for valuation, appraisal, homestead exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action may be brought, (c) prescribing any other statute of limitations, (d) allowing any right of redemption or possession following any foreclosure sale, or (e) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower. Borrower expressly waives the benefit of any such State law. Borrower hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent, dower, and curtesy.

(20) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex, or national origin and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce any restrictive covenants on the dwelling relating to race, color, religion, sex, or national origin.

(21) Borrower further agrees that the loan(s) secured by this instrument will be in default should any loan proceeds be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 CFR Part 1940, Subpart G, Exhibit M.

(22) This instrument shall be subject to the present regulations of the Farmers Home Administration, and to its future regulations not inconsistent with the express provisions hereof.

(23) Notices given hereunder shall be sent by certified mail, unless otherwise required by law, addressed, unless and until some other address is designated in a notice so given, in the case of the Government to Farmers Home Administration, United States Department of Agriculture, at the mailing address mentioned above, and in the case of Borrower at the address shown in the Farmers Home Administration Finance Office records (which normally will be the same as the post office address shown above).

(24) If any provision of this instrument or application hereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or applications of the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declared to be severable.

EXECUTED this 18th day of October, 1990. 23576
Partnership or Corporation Individual(s)

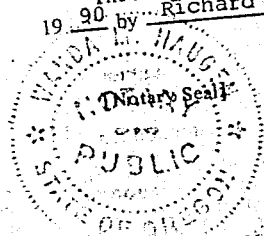
(Name of Borrower)
By: _____
By: _____
By: _____
Attest: _____

[Corporate Seal]

ACKNOWLEDGMENT FOR INDIVIDUALS

STATE OF OREGON } ss:
COUNTY OF KLAMATH }
The foregoing instrument was acknowledged before me this 18th day of October, 1990 by Richard R. Rodgers and Charlotte D. Rodgers (Names of persons acknowledging)

Notary Public of and for the State of Oregon
My Commission expires 8/13/93



ACKNOWLEDGMENT FOR A PARTNERSHIP

STATE OF OREGON } ss:
COUNTY OF _____ }
The foregoing instrument was acknowledged before me this _____ day of _____, 19____ by _____ on behalf of _____, a partnership. (Names of acknowledging partners) (Name of partnership)

Notary Public of and for the State of Oregon
My Commission expires _____

[Notary Seal]

ACKNOWLEDGMENT FOR A CORPORATION

STATE OF OREGON } ss:
COUNTY OF _____ }
The foregoing instrument was acknowledged before me this _____ day of _____, 19____ by _____ (Name of Corporate Officer) (Title of Corporate Officer)
of _____, a _____ corporation, on behalf of the corporation. (Name of Corporation) (State of Incorporation)

Notary Public of and for the State of Oregon
My Commission expires _____

[Notary Seal]

EXHIBIT "A"

DESCRIPTION

Parcel 1: Lots 6, 7 and 8 of Section 30, Township 37 South, Range 9 East of the Willamette Meridian.

Parcel 2: All that portion of Lot 2 of Section 31, Township 37 South, Range 9 East of the Willamette Meridian, between the Westerly boundary of the County Road, at one time the Dalles-California Highway, as the same is now located and constructed, and the meander line which marks the Westerly boundary of said Lot 2, SAVING AND EXCEPTING THEREFROM that certain tract as conveyed to Richard J. Conroy by deed dated April 26, 1937, recorded in Volume 109 at page 19, Deed Records of Klamath County, Oregon.

Parcel 3: All that portion of Lot 4 of Section 31, Township 37 South, Range 9 East of the Willamette Meridian, between the Northerly boundary of the County Road, at one time the Dalles-California Highway, as the same is now located and constructed, and the meander line which marks the Northerly boundary of the said Lot 4.

Parcel 4: All that portion of Lot 5 of Section 31, Township 37 South, Range 9 East of the Willamette Meridian, between the Northwesterly boundary of the County Road, at one time the Dalles-California Highway, as the same is now located and constructed, and the meander line which marks the Northwesterly boundary of the said Lot 5, SAVING AND EXCEPTING THEREFROM that certain tract conveyed to J.J. Wissenback by deed dated December 28, 1935, recorded in Book 107 at page 443, Deed Records of Klamath County, Oregon.

Parcel 5: All of Lots 7 and 8 of Section 31, Township 37 South, Range 9 East of the Willamette Meridian, SAVING AND EXCEPTING THEREFROM that certain tract as conveyed to Emanuel Nedvidek by deed dated October __, 1928, recorded in Volume 81 at page 278, Deed Records of Klamath County, Oregon.

Parcel 6: Lot 12, Section 31, Township 37 South, Range 9 East of the Willamette Meridian.

Parcel 7: Lots 9, 10, 11 and 13 of Section 31, Township 37 South, Range 9 East of the Willamette Meridian.

Parcel 8: All of those portions of Lots 6 and 8 of Section 25 and Lots 1, 2 and 3 of Section 36, Township 37 South, Range 8 East of the Willamette Meridian, which lies Easterly from the Easterly boundary of the right of way of the Oregon Eastern Railway (Southern Pacific Railway.)

All of those portions of Lots 1 and 5 of Section 25, Township 37 South, Range 8 East of the Willamette Meridian, which lies easterly from the Easterly boundary of the right of way of Oregon Eastern

Highway (Southern Pacific Railway) SAVING AND EXCEPTING THEREFROM that certain tract heretofore conveyed to Leonard Hamilton by deed dated March 16, 1940, recorded in Volume 128 at page 279, Deed Records of Klamath County, Oregon, AND ALSO EXCEPTING THEREFROM those certain parcels deeded to the State of Oregon, by and through its State Highway Commission by Robert E. Graham, et al, dated April 11, 1940, recorded April 29, 1940, and T.B. Watters, et ux, dated August 2, 1941, recorded August 15, 1941, in Volume 129 at page 21 and Volume 140 at page 349, respectively, Deed Records of Klamath County, Oregon.

Parcel 9: All that portion of Lot 8 of Section 31, Township 37 South, Range 9 East of the Willamette Meridian, more particularly described as follows: Beginning at a point in the Section line between

Sections 30 and 31 of said Township and Range, which marks the northerly boundary of said Lot 8, and from which the meander corner between the said Sections bears North 88° 03' East 115.6 feet distant, and running thence South 88° 03' West along the said Section line 680.2 feet, more or less, to the northwesterly corner of the said Lot 8; thence South 1° 16' West along the westerly boundary of the said Lot 8, 795.7 feet; thence North 88° 03' East and parallel with the northerly boundary of the said Lot 8, 978.6 feet; thence North 19° 39½' West 834 feet, more or less, to the said point of beginning.

EXCEPTING THEREFROM:

A parcel of land situated in Lots 1 and 5 of Section 25, Township 37 South, Range 8 East of the Willamette Meridian and being more fully described as follows:

Beginning at the meander corner on the easterly boundary of the said Section 25, Township 37 South, Range 8 East of W. M. from which the Northeastly corner of the said Section 25 bears North 1° 17' East, 1507.4 feet distant, and running thence

South 0° 33' West along the said Easterly boundary of the said Section 25, 460.6 feet; thence

West 466.6 feet, more or less to the point in the Easterly boundary of the right of way of the relocated Dalles-California Highway, as the same is now established and staked on the ground; thence

Northerly along the said right of way boundary 1515 feet, more or less to its intersection with the Westerly boundary of the right of way of the original Dalles-California Highway as the same is now located and constructed; thence

Southeasterly along the last mentioned right of way boundary 1185 feet more or less to its intersection with the said Easterly boundary of the said Section 25; thence

South 1° 17' West 5 feet more or less to the said POINT OF BEGINNING

SAVING AND EXCEPTING that portion thereof conveyed to State of Oregon, by and through its State Highway Commission by deed recorded January 28, 1942, Volume 144 at page 481, Records of Klamath County;

ALSO reserving and excepting from said property a parcel of land 25 feet in width, being 12½ feet on each side of the following described center line:

Beginning at a point in the line marking the Easterly boundary of said Section 25, from which the above mentioned meander corner bears North $0^{\circ} 33'$ East 176.4 feet distant and running thence; North $27^{\circ} 39'$ West 597.7 feet; thence North $26^{\circ} 20'$ West 222.8 feet; thence West 125.4 feet, more or less, to a point in the above mentioned Easterly boundary of the right of way of the relocated Dalles-California Highway as the same is now established and staked upon the ground.

Parcel 10: A portion of Lot 2, Section 31, Township 37 South, Range 9 East of the Willamette Meridian, more particularly described as follows:

Beginning at the center of an iron pipe driven in the ground in the line marking the Westerly boundary of the Dalles-California Highway as the same is now constructed, from which Angle Point No. 7 in the meander line of Section 31, Township 37 South, Range 9 East of the Willamette Meridian, as established by Fred Mensch, U.S. Cadastral Engineer, in November 1916, bears North $16^{\circ} 37'$ East 932.3 feet distant; and running thence North $81^{\circ} 27'$ West 235.5 feet, thence South $30^{\circ} 12'$ West 201 feet; thence South $72^{\circ} 08'$ East 269.2 feet more or less to a point in the Westerly line of the Highway which is South $19^{\circ} 08'$ West 237 feet from the point of beginning; thence North $19^{\circ} 08'$ East along the Westerly line of the Highway, 237 feet to the place of beginning.

Parcel 11: A piece or parcel of land situated in Lots 1 and 5, Section 25, Township 37 South, Range 8 East of the Willamette Meridian, being more particularly described as follows:

All those portions of Lots 1 and 5, Section 25, Township 37 South, Range 8 East of the Willamette Meridian lying Northerly and Easterly from the centerline of Klamath County Road No. 698 (Original Dalles-California Highway) as the same is presently located and constructed.

SHARED APPRECIATION AGREEMENT

This Agreement is entered into between United States of America acting through the Farmers Home Administration, U.S. Department of Agriculture, herein called FmHA, and Richard R. Rodgers and Charlotte D. Rodgers (called "Borrower") on October 18, 1990 and expires on October 18, 2000.

Borrower is indebted to FmHA for loan(s) as evidenced by the note(s) described below:

<u>Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Due Date</u>
03-06-81	\$200,000.00 (Reamortized)	12.25	03-06-21
12-05-83	\$265,391.78 (Reamortized)	5.25	12-05-20
03-06-85	\$281,767.57	5.25	03-06-21

This Agreement is attached to the note(s) described above. As of the date of this Agreement, before write-down, the unpaid principal balance on these notes was \$ 276,589.20 and the unpaid interest balance was \$ 69,421.99. These note(s) were modified by the following note(s) which are attached to note(s) described above.

<u>Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Due Date</u>
10-18-90	\$232,335.50	5.00	10-18-20

The note(s) described above are secured by the following real estate security instruments:

<u>Grantor</u>	<u>Date of Security Instrument</u>	<u>County</u>	<u>State</u>	<u>Book</u>	<u>Page</u>
Richard R. Rodgers	03-06-81	Klamath,	OR	M81 Mtgs	4097
Charlotte D. Rodgers					
The above mortgage was rerecorded on 01-06-84 M84 Mtgs 302					

As a condition to, and in consideration of, FmHA writing down the above amounts and restructuring the loan, Borrower agrees to pay FmHA an amount according to one of the following payment schedules:

1. Seventy-five (75) percent of any positive appreciation in the market value of the property securing the loan as described in the above security instrument(s) between the date of this Agreement and either the expiration date of this Agreement or the date the Borrower pays the

loan in full, ceases farming or transfers title of the security, if such event occurs four (4) years or less from the date of this Agreement.

2. Fifty (50) percent of any positive appreciation in the market value of the property securing the loan above as described in the security instruments between the date of this Agreement and either the expiration date of this Agreement or the date Borrower pays the loan in full, ceases farming or transfers title of the security, if such event occurs after four (4) years but before the expiration date of this Agreement.

The amount of recapture by FmHA will be based on the difference between the value of the security at the time of disposal or cessation by Borrower of farming and the value of the security at the time this Agreement is entered into. If the borrower violates the term of this agreement FmHA will liquidate after the borrower has been notified of the right to appeal.

Market value of the property securing loan(s) \$ 300,000.00.

Net recovery value of property securing loan(s) \$ 83,476.29.

Amount of write-down \$ 113,577.75.

Amount of Account Equity \$ N/A.

Richard R. Rodgers
 RICHARD R. RODGERS
Charlotte O. Rodgers
 CHARLOTTE O. RODGERS

Robert K. Haase
 ROBERT K. HAASE
 County Supervisor
 Farmers Home Administration
 U.S. Department of Agriculture

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co.
 of Nov. A.D., 19 90 at 10:36 o'clock AM., and duly recorded in Vol. M90
 of Mortgages on Page 23573
 FEE \$48.00
 Return: ATC
 Evelyn Biehn County Clerk
 By *Julie Mulendore*