

28649

Vol. 7699 Page 7699

MTC 25361

Customer/Note No. 3675-141 - 241 - 242

# **LINE OF CREDIT DEED OF TRUST** (Open End)

On April 11, 1991

CHARLES D. CHEYNE

hereinafter called Grantors, whose address is

10057 E. Langell Valley Rd., Bonanza, OR 97623

grant, convey, warrant, transfer and assign to

MOUNTAIN TITLE COMPANY OF KLAMATH COUNTY

hereinafter called Trustee, whose address is

222 South Sixth St., Klamath Falls, OR 97601

power of sale for the benefit of

NORTHWEST FARM CREDIT SERVICES, ACA

Credit Act of 1971, as amended, hereinafter called Beneficiary, whose address is West 601 First Avenue, P.O. Box TAF-C5, Spokane, Washington 99220-4005, property in

KLAMATH

County(ies), State of

OREGON

, more particularly described in Exhibit "A", attached hereto and incorporated herein, including all rents, issues, profits, buildings and improvements thereon and in all tenements, hereditaments, rights, privileges, easements, rights of way and appurtenances, (including without limitation private roads, grazing privileges, water rights, ditches and conduits and rights of way therefor, all plumbing, lighting, heating, cooling, ventilating, elevating, and irrigating apparatus and other equipment and fixtures, now or hereafter belonging to or used in connection therewith), all of which shall hereinafter be called Property.

The following described note(s), Membership Agreement, security documents and any other documents or instruments signed in connection with the note(s) and security documents and any amendments thereto are collectively called the "Loan Documents." "Advances" shall include any amounts provided to Grantors under the terms of the Loan Documents and any amounts expended by Beneficiary to protect the Property or enforce its rights under the Loan Documents. This conveyance is intended to secure performance of the covenants and agreements contained herein, and in any Loan Documents, and payment of the indebtedness under the terms of the note(s) made by Grantors to the order of Beneficiary, with interest and charges as provided therein and in the Loan Documents, and any extensions, modifications or renewals thereof.

## DATE OF NOTE

4-9-1990

4-11-1991

4-22-91

## PRINCIPAL AMOUNT

12,710.00

178,175.00

32,035.00

## FINAL INSTALLMENT DATE

January 1, 1994

April 1, 1992

April 1, 1999

In addition, this deed of trust is intended to secure any other loans and advances made within five years from the date of this deed of trust by Beneficiary to Grantors or any of them, no matter how evidenced; provided however, the aggregate sum of all unpaid principal balances of all such loans and advances secured hereby shall not, at any one time, exceed \$ 300,000.00, exclusive of interest and amounts advanced to protect Beneficiary's interests hereunder and under the Loan Documents. The continuing validity and priority of this deed of trust for future loans and advances shall not be impaired by the fact that at certain times no outstanding indebtedness to Beneficiary nor commitment from Beneficiary to make future loans exist. The terms of the note(s) and Loan Documents, described above, provide that the interest rate, payment terms or amounts due may be indexed, adjusted, renewed or renegotiated.

## **THIS DEED OF TRUST IS ALSO INTENDED TO BE A FIXTURE FILING.**

The Property does not exceed      acres in area and if located in the State of Washington, it is not principally used for agricultural or farming purposes.

Grantors and each of them REPRESENT, WARRANT, COVENANT and AGREE:

1. That they have title to the Property free from encumbrances, except as described in Exhibit "A"; they have good right and lawful authority to convey and encumber the same; they will warrant and defend the same forever against the lawful claims and demands of all persons whomsoever; and they agree this covenant shall not be extinguished by foreclosure or other transfers.
2. That this Deed of Trust also constitutes a Security Agreement granting Beneficiary a security interest in any and all personal property described in Exhibit "A".

3. To keep all buildings and other improvements, now or hereafter existing, in good repair; not to remove or demolish or permit the removal or demolition of any building or other improvement; to restore promptly in a good and workmanlike manner, any building or improvement, which may be damaged or destroyed; to maintain the Property in a good and husbandlike manner; not to change or permit change in the use of the Property; and not to do anything which would reduce the value of the Property.
4. To maintain casualty insurance, naming Beneficiary as loss payee, on all buildings and improvements, against loss or damage by fire and other risks; to maintain liability insurance; to pay all premiums and charges on all such insurance when due; and to provide Beneficiary satisfactory evidence of such insurance upon request. All such insurance shall be in such form(s), with such company(ies) and in such amount(s) as shall be satisfactory to Beneficiary.
5. To pay all debts and money, secured hereby, when due; to pay, when due, all taxes, assessments, rents and other charges upon the Property and to suffer no other encumbrance, charge or lien on the Property, which would be superior to this deed of trust, except as stated above.
6. To specifically assign and deliver to Beneficiary all rents, royalties, damages and payments of every kind, including without limitation insurance reimbursements and condemnation awards, at any time accruing, for any transfer, loss or seizure of the Property, any portion thereof or any rights therein; Beneficiary may, at its option, apply such amounts in any proportion to any of the indebtedness hereby secured; and application or release of such amounts shall not cure or waive any default or notice of default or invalidate any act done pursuant to such notice.
7. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Property and its use, including without limitation all environmental laws; not to use or permit the use of the Property for any unlawful or objectionable purpose; to remedy any environmental contamination or violation of environmental laws that may occur or be discovered in the future; to allow Beneficiary access to the Property to inspect its condition and to test and monitor for compliance with applicable laws (any inspections or tests made by Beneficiary shall be for Beneficiary's purposes only and shall not be construed to create any responsibility or liability on the part of Beneficiary to Grantors or to any other person); to forward copies of any notices received from any environmental agencies to Beneficiary; and to indemnify and hold Beneficiary, its directors, employees, agents and its successors and assigns, harmless from and against any environmental claims of any kind, and all costs, and expenses incurred in connection therewith, including, without limitation attorney's fees.
8. That neither Grantors nor, to the best of Grantors' knowledge, any prior owner has created or permitted conditions on the Property, which may give rise to environmental liability; no enforcement actions are pending or threatened; no underground tanks are located on the Property except as already disclosed; any such underground tanks currently or previously located on the Property do not now and never have leaked and no contaminated soil is located on the Property; and Grantor's representations, warranties, covenants and indemnities herein and in the Loan Documents shall survive satisfaction of the note(s) and Loan Documents, foreclosure of this deed of trust, acceptance of a deed in lieu of foreclosure or any transfer or abandonment of the Property.
9. To perform all terms and conditions of each water or other contract, described in Exhibit "A", if any, and to promptly pay all sums due or to become due under each contract so that no delinquency or default will occur under such contract(s); not to apply or enter into any federal, state or local program which limits or restricts the use of the Property, in any way without prior written consent of Beneficiary.
10. That the term "Grazing Rights," as hereinafter used refers to that portion of the Property, if any, consisting of grazing leases, permits, licenses, privileges, and preferences, or any of them, which have or will be assigned, conveyed or waived to Trustee or Beneficiary, together with any additions, renewals, replacements or substitutions thereof; if any portion of the Grazing Rights is a leasehold interest in state lands, such leasehold shall be considered to be real property; such leasehold and all other real property portions of the Property constitute a single operating unit; and in the event of foreclosure, Beneficiary shall have the right to have such leasehold and the other real property sold as a unit and not in parcels; any statements and representations in any applications for Grazing Rights are true and correct; Grantors have received no notice that the Grazing Rights have or are to be terminated, cancelled or modified; and any termination or cancellation of any of the Grazing Rights shall constitute an event of default under this deed of trust.
11. To execute any instrument deemed necessary by the Beneficiary to assign, convey or waive such Grazing Rights to the Trustee; to pay all fees and charges, and to perform all acts and things necessary to preserve and keep in good standing the Grazing Rights; to take no action which would adversely affect the Grazing Rights; to procure renewals of the Grazing Rights upon or prior to their expiration date; to operate the lands covered by the Grazing Rights in conjunction with the other real estate portion of the Property and not to convey or attempt to convey either separately; to forward to Beneficiary copies of any notices received by Grantors regarding the Grazing Rights; and in the event of foreclosure of this deed of trust, to waive all claims for preference in the Grazing Rights upon demand from the purchaser of the Property at Trustee's or foreclosure sale, or from any successor to such purchaser.
12. That if the Property is within an irrigation block and/or subject to water service contract(s) governed by the provisions of "Federal reclamation law," and the regulations issued thereunder, Grantors shall comply with the terms and provisions of said laws, regulations and contracts; Grantors, and each of them, for themselves, their heirs, successors and assigns, hereby appoint Beneficiary their attorney-in-fact to select and designate the portion of the property to be subject to a recordable contract, in the event Grantors become subject to the excess land limitation; if Grantors fail to comply with the terms of said law, regulations or contracts, or if the delivery of water for the irrigation of the Property is discontinued in whole or in part, Grantors shall be in default; in the event the Bureau of Reclamation determines that continued drainage maintenance on the Property is no longer feasible, and Grantors purchase other lands offered as a preference purchase right (as an adjustment for wet lands), Grantors shall execute a supplemental deed of trust on such lands in favor of the Beneficiary; and failure to execute such deed of trust on demand, shall constitute an event of default.
13. That in the event of default in any of the covenants or agreements herein, or in any of the Loan Documents, Beneficiary may, at its option perform the same, in whole or in part; any advances, attorney fees or costs paid or incurred by Beneficiary to protect or enforce its rights under the Loan Documents, in bankruptcy, appellate proceedings or otherwise, shall be payable on demand and shall become a part of the obligation secured by this deed of trust.

16. If this deed of trust is a residential deed of trust, subject to Truth in Lending Disclosures, that during the existence of the indebtedness hereby secured, Beneficiary, at its option, may collect additional amounts and pay real property taxes and special assessments levied against the Property; Beneficiary may elect at any time to pay or not to pay taxes and assessments; notice to any person liable for or making the payments upon the indebtedness hereby secured, or actual payment of any taxes or assessments by Beneficiary shall constitute an election by Beneficiary to pay taxes and assessments; Beneficiary may elect to pay such taxes and assessments either prior to or after collecting such additional amounts necessary to make each payment; if Beneficiary elects to pay such taxes and assessments prior to collecting such additional amounts, Beneficiary may add the amounts expended by it for taxes and assessments to the note(s) balance at the time the payment is made and such amount shall bear interest as provided in the note(s) and shall be secured by the Loan Documents; after any payment of taxes or assessments by Beneficiary, or after notice of Beneficiary's election to pay taxes and assessments, if given in advance of paying the taxes and assessments, Grantors shall pay to Beneficiary on the first day of each month, commencing with the next installment, in addition to the scheduled installments of principal and interest due under the note(s), an amount equal to 1/12 of the annual real property taxes and special assessments as estimated by Beneficiary; such additional payments shall continue until any subsequent election by Beneficiary not to pay taxes and assessments.
17. That time is of the essence and in the event of default, at Beneficiary's option, the entire indebtedness secured hereby shall forthwith become due and payable and bear interest at the rate set forth in the Loan Documents for delinquent payments; Beneficiary shall have the right to foreclose the lien of this deed of trust or to direct Trustee, in writing, to foreclose this deed of trust by notice and sale, to have a receiver appointed in any court proceeding, to collect any rents, issues and profits from the Property and to deliver them to Beneficiary to be applied as provided above and to exercise any rights and remedies available under the Uniform Commercial Code for the state in which the property is located; and reasonable notice if required by such Code shall be five (5) days.
18. That Beneficiary may from time to time, in writing and without further notice or consent, release any person from liability for payment of any of the indebtedness or extend the time or otherwise alter the terms of payment of any of the indebtedness; and Trustee may, with written consent of Beneficiary, at any time and from time to time, and without affecting the liability of any person:
- Join in any subordination or other agreement affecting this deed of trust or lien or charge thereof.
  - Reconvey, without warranty, any or all of the Property.
19. That after all sums secured hereby have been paid, upon receipt of the deed of trust and note(s) and payment of its fees, Trustee shall reconvey without warranty the Property, as provided by law. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."
20. That, in the event of foreclosure of this deed of trust by notice and sale, the power of sale shall be exercised by the Trustee according to and under the authority of the law pertaining to deeds of trust then in effect in the state in which the Property is situated; Trustee shall deliver to purchaser its deed, without warranty, containing recitals demonstrating compliance with the requirements of such law.
21. To surrender possession of such premises within the time period provided by law; in the event Beneficiary is purchaser of the Property and possession is not delivered, as provided by law, to pay Beneficiary the costs and the expenses, including reasonable attorney fees, incurred in any suit or action by Beneficiary to obtain possession of the premises.
22. That Trustee accepts this trust when this deed, duly executed and acknowledged is recorded as provided by law; any Trustee lawfully appointed by Beneficiary as a substitute or successor Trustee shall succeed to all the powers and duties of the Trustee named herein; Trustee is not obligated to notify any party hereto of the pending sale under any other deed of trust or any action or proceeding in which Grantors, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by Trustee.
23. That as used herein, the term "deed of trust" shall be synonymous with the terms "trust indenture" and "trust deed"; the term "Grantors" shall be synonymous with the term "Trustors" as used in any of the laws of the state in which the Property is situated; the term "Beneficiary" shall mean the holder and owner of any note secured hereby, or if any note(s) has been pledged, the pledgee thereof.
24. That the failure of Beneficiary to exercise any right or option provided herein, at any time shall not preclude Beneficiary from exercising any of such rights at any other time; the covenants and agreements contained herein shall be binding on and inure to the benefit of the parties and their respective heirs, successors and assigns; all rights conferred on Beneficiary or on Trustee are cumulative and additional to any rights conferred by law; and if any provision is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof and the deed of trust shall be construed as though such provision had been omitted.
25. That Grantors and each of them join in this instrument for the purpose of subjecting each of their right, title and interest, if any, in the Property, whether of record or otherwise and including any right to possession, to the lien of this deed of trust.
26. That the following parties join in this instrument to perfect the lien offered as security for the loan, but assume no liability for payment of the indebtedness described in the Loan Documents except for that arising under paragraph 7 above:
27. Additional covenants, terms and conditions are contained on the following described attachments which are incorporated in this deed of trust as though set out here in full:
- \_\_\_\_\_ Timber Rider
  - \_\_\_\_\_ Montana Homestead Acknowledgment
  - \_\_\_\_\_ Other (describe):



7702

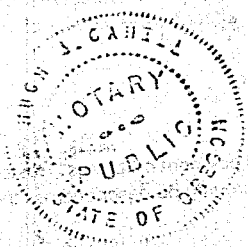
Dated: 4-24-91

x Charles D. Cheyne  
Charles D. Cheyne

x Margaret G. Cheyne  
Margaret G. Cheyne

STATE OF OREGON )  
 ) ss.  
County of Klamath)

On this 24 day of April, 1991, before me personally appeared Charles D. Cheyne and Margaret G. Cheyne, to me known to be the persons described in and who executed the within instrument, and acknowledged that they executed the same as thier free act and deed.



J. Cahill  
Notary Public for the State of OR.  
Residing at Klamath Falls, OR  
My commission expires 6-16-93

## EXHIBIT "A"

## DESCRIPTION

7703

Beginning at the Northwest corner of the SW $\frac{1}{2}$ SW $\frac{1}{2}$  of Section 11, Township 40 South, Range 9 East of the Willamette Meridian; thence South along the West line of said forty acre tract 60 rods; thence East and parallel with the North line of the S $\frac{1}{2}$ SW $\frac{1}{2}$  of said Section 160 rods to the East line of the SE $\frac{1}{2}$ SW $\frac{1}{2}$  of said Section; thence North along the East line of said SE $\frac{1}{2}$ SW $\frac{1}{2}$  to the Northeast corner thereof; thence West along the North line of the S $\frac{1}{2}$ SW $\frac{1}{2}$  of said Section 160 rods to the place of beginning, being the North 60 rods of the S $\frac{1}{2}$ SW $\frac{1}{2}$  of Section 11, Township 40 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

*E. C.*  
*MSA*

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_ MTC \_\_\_\_\_ the \_\_\_\_\_ 26th \_\_\_\_\_ day  
of \_\_\_\_\_ April \_\_\_\_\_ A.D., 19 91 at 9:09 o'clock A. \_\_\_\_\_ M., and duly recorded in Vol. M91,  
of \_\_\_\_\_ Mortgages \_\_\_\_\_ on Page 7699.  
Evelyn Biehn, County Clerk  
By Bernetha L. Helrich

FEE  
\$33.00

*MTC*