

79462

04-21-94A09:25 RCVD

Vol 94 Page 11831

Alter Recording Return To:
 Northwest Farm Credit Services, ACA
 P. O. Box 148
 Klamath Falls, OR 97601

Customer/Note No. 22790 441
 Branch 440
 Peter Alan Nevin

MTC 32293-KR

Deed of Trust and Fixture Filing

(Closed End)

On April 15, 1994, Peter Alan Nevin, same person as Peter A. Nevin and Malinda B. Nevin, same person as Malinda Nevin, husband and wife; hereinafter called Grantors, whose address is 17017 Highway 140 E, Dairy, OR 97625, grant, convey, warrant, transfer and assign to Mountain Title Company of Klamath County, a corporation, hereinafter called Trustee, whose address is 222 South 6th Street, Klamath Falls, OR 97601, in trust with power of sale for the benefit of NORTHWEST FARM CREDIT SERVICES, ACA, a corporation organized under the Farm 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." This conveyance is intended to secure performance of the covenants and agreements contained herein, and in any of the Loan Documents, and payment of indebtedness under the terms of the note(s) made by Grantors to the order of Beneficiary, with interest and advances as provided therein and in the Loan Documents, and any extensions, modifications or renewals thereof:

DATE OF NOTE	PRINCIPAL AMOUNT	FINAL INSTALLMENT DATE
April 15, 1994	\$363,500.00	January 1, 2014

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; and Beneficiary shall have the right to enter upon the Property to make full inspection of the Property.

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; to perform all acts necessary to perfect and maintain any water permit, certificate, license or other water interest, however designated, described in or used in conjunction with the real property described in Exhibit "A"; any assignment of any such interest, during the term of this deed of trust, naming Beneficiary as an assignee shall be for security purposes and shall not alter Grantors' obligations hereunder; and any failure of Grantors to perform any such obligation shall constitute an event of default.
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 wetlands), 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.

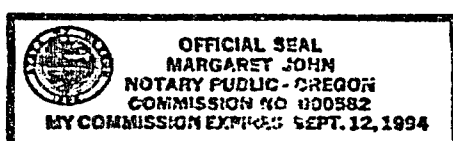
14. That the indebtedness and obligations secured by this deed of trust are personal to the Grantors and are not assignable by Grantors; Beneficiary relied upon the credit of Grantors, the interest of Grantors in the Property and the financial market conditions then existing when making this loan; if Grantors sell, transfer or convey or contract to sell, transfer or convey the Property, or any portion thereof, or if the ownership of any corporation or partnership, owning all or any portion of the Property shall be changed either by voluntary or involuntary sale or transfer or by operation of law, without prior written consent of Beneficiary, or if Grantors default in the payment of the indebtedness, or with respect to any warranty, covenant or agreement in the Loan Documents or if a receiver or trustee for any part of the Property is appointed, or if any proceeding under the bankruptcy or insolvency laws is commenced by or against Grantors, or if Grantors become insolvent, or if any action is commenced to foreclose or enforce a lien on any portion of the Property, then, Grantors shall be in default hereunder.
15. If the indebtedness is subject to a guarantee from Farmers Home Administration, that Grantors shall be in default under this deed of trust, the above note(s) and Loan Documents 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; prior to loss of the exemption from the highly erodible land conservation restrictions found in 7 CFR Part 12, Grantors must demonstrate that Grantors are actively applying an approved conservation plan on that land which has been determined to be highly erodible prior to 1990 or two years after the Soil Conservation Service has completed a soil survey for that land, whichever is later; and Grantors must demonstrate prior to January 1, 1995, that any production after that date of an agricultural commodity on highly erodible land will be done in compliance with an approved Soil Conservation Service conservation system.
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:
 - a. Join in any subordination or other agreement affecting this deed of trust or lien or charge thereof.
 - b. 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.

Peter Alan Nevin
Peter Alan Nevin
Malinda B. Nevin
Malinda B. Nevin

STATE OF Oregon
County of Klamath ^{1ss.}

On this 18 day of April, 1994, before me personally appeared Peter Alan Nevin and Malinda B. Nevin, to me known to be the person(s) described in and who executed the within instrument, and acknowledged that they executed the same as their free act and deed.



Margaret John
Notary Public for the State of Oregon
Residing at Klamath Falls
My commission expires 9-12-94

Beneficiary acknowledges that this deed of trust is subject to a security interest in favor of AgAmerica, FCB (Bank) and by its acceptance hereof and pursuant to and in confirmation of certain agreements and assignments by and between Beneficiary and Bank, does assign, transfer, and set over the same unto Bank, its successors and assigns, to secure all obligations of Beneficiary to Bank, provided that pursuant to such agreements and assignments Beneficiary has authority to perform all loan servicing and collection actions and activities hereunder, including without limitation thereto, releasing in whole or in part and foreclosing judicially or otherwise this deed of trust until the Bank, by instrument recorded in the office in which this deed of trust is recorded, revokes such authority; provided, however, if Bank is the Beneficiary in this transaction, this paragraph is without effect.

PARCEL 1

11835

Township 38 South, Range 11 1/2 East of the Willamette Meridian.

Section 30: That portion of Lot 3 and the NE1/4SW1/4 lying Southerly and Westerly of Mitchell Road, Lot 4; SE1/4SW1/4; the SW1/4SE1/4.

Section 31: Lot 1; the NE1/4NW1/4; the NW1/4NE1/4; that portion of the SE1/4NW1/4 and the SW1/4NE1/4 lying Northerly of the Klamath Falls-Lakeview Highway.

Less and excepting from the above, a parcel heretofore conveyed to Melvin Kendall, et ux, by deed recorded in Volume M72, page 3357, records of Klamath County, Oregon, and further excepting the right of way of Mitchell Road.

PARCEL 2

A parcel of land situated in the NE1/4SW1/4 of Section 30, Township 38 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Beginning at the Southeast corner of said NE1/4SW1/4; thence North along the East line of the said NE1/4SW1/4 a distance of 450.0 feet to a point; thence West a distance of 780.0 feet to a point; thence South 41 degrees 00' East a distance of 235.0 feet, more or less, to a point on the Northerly right of way line of Mitchell Road; thence continuing Southeasterly along the Northeasterly line of Mitchell Road to its intersection with the South line of said NE1/4SW1/4; thence East along the South line to the point of beginning.

PARCEL 3

A tract of land, situated in Section 13, 14, 23, 24, 25 and 26 in Township 38 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a 1 inch iron pipe marking the quarter-corner common to said Sections 24 and 25; thence South 89 degrees 50'59" West along the South line of said Section 24 a distance of 1987.2 feet to a 5/8 inch iron rod; thence North a distance of 1320.0 feet to a point; thence South 89 degrees 50'59" West a distance of 660.0 feet to a point; thence North a distance of 1801.48 feet to a point; thence North 22 degrees 10'47" West a distance of 451.44 feet to a point; thence North 28 degrees 09'31" West a distance of 978.72 feet to a point; thence North 59 degrees 24'05" East a distance of 1337.44 feet to an intersection with the center line of a canal; thence North 30 degrees 24'06" West, along said center line, a distance of 2753.49 feet to a point; thence continuing along said center line North 00 degrees 08'43" West, a distance of 1177.76 feet to a point; thence leaving said center line, South 89 degrees 41'23" West a distance of 12.41 feet to a 5/8 inch iron pin reference point; thence continuing South 89 degrees 41'23" West a distance of 1672.4 feet, more or less, to the North-South center Section line of Section 14; thence South along said center section line to the South one-quarter corner of said Section 14; thence continuing South along the center section line of Section 23 to its intersection with the Northerly right of way line of Swan Lake Road, thence Southeasterly along said right of way line to a 5/8 inch iron rod marking the most Westerly corner of tract of land described in Deed from Nevin Cattle Company to Thomas W. Lassett, et ux, recorded October 23, 1978 in Volume M78, page 23751, Microfilm Records of Klamath County, Oregon; thence following the perimeter boundary of last mentioned tract the following courses and distances; North 65 degrees 46' East 660.0 feet; North 24 degrees 14' West 803.37 feet; North 65 degrees 46' East 660.00 feet; South 24 degrees 14' East 2092.77 feet, and South 65 degrees 46' West 1320.0 feet to a 5/8 inch iron pipe on the Northeasterly right of way line of Swan Lake Road; thence South 24 degrees 14' East along said right of way line to its intersection with the Northerly line of the Lakeview Highway; thence Northerly and Easterly along the Northerly line of the right of way of the Lakeview Highway to its intersection with the North-South center line of Section 25; thence North along said center Section line to the point of beginning.

INITIALS:

P.W. M.A.

PARCEL 4

11836

A tract of land situated in Section 24, Township 38 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at the Southeast corner of the SW1/4 of Section 24; thence South 89 degrees 50'59" West, on the South line of said SW1/4, 667.27 feet; thence North 32 degrees 43'15" West 553.75 feet; thence North 39 degrees 20'31" West, 673.59 feet; thence North 40 degrees 51'11" West, 509.84 feet; thence North 38 degrees 27'05" West, 611.58 feet; thence North 50 degrees 32'06" East, 745.27 feet; thence North 49 degrees 57'56" East, 945.70 feet; thence South 35 degrees 15'13" East, 278.40 feet; thence North 60 degrees 16'08" East 1263.30 feet; thence East 2195.50 feet to a point on the East line of the NE1/4 of said Section 24; thence South 00 degrees 28'06" West on said East line 705.98 feet to the Southeast corner of said NE1/4; thence South 00 degrees 05'59" East on the East line of the SE1/4 of said Section 24, 2631.63 feet to the Southeast corner of said SE1/4; thence North 89 degrees 51'15" West on the South line of said SE1/4, 2644.02 feet to the point of beginning containing 293.70 acres.

PARCEL 5

Township 38 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon;

Section 30: That portion of Lot 3 and the NE1/4SW1/4 lying Northerly and Easterly of Mitchell Road, SAVING AND EXCEPTING the following parcel:

Beginning at the Southeast corner of said NE1/4SW1/4; thence North along the East line of said NE1/4SW1/4 a distance of 450.0 feet to a point; thence West a distance of 780.0 feet to a point; thence South 41 degrees 00' East a distance of 235.0 feet, more or less, to a point on the Northerly right of way line of Mitchell Road; thence continuing Southeasterly along the Northeasterly line of Mitchell Road to its intersection with the South line of said NE1/4SW1/4; thence East along said South line to the point of beginning.

TAX ACCOUNT NOS.: 3810-02500-00200; 3811-V3000-00200; 3811-V3100-00200; 3811-V3100-00600; 3810-00000-03100; 3811-V3000-00300; 3811-V3100-00400; 3810-00000-02701

Together with a 100 HP US electric motor and Cutler Hammer panel with a Peerless turbine pump; a 50 HP General Electric motor and Cutler Hammer panel with a Cornell centrifugal pump; a 100 HP General Electric motor and Cutler Hammer Panel with Peerless turbine pump; a 25 HP General Electric motor and Delta panel with a Cornell centrifugal pump; a 75 HP US electric motor and Delta panel with a Peerless centrifugal pump; approximately 3,800 feet of size 12 inch through 14 inch buried steel mainline; and any replacements thereof, all of which are hereby declared to be appurtenant thereto.

A 1984 Camelot mobile home, size 24' by 52' and 12' by 24'; and a 1961 Greatlakes mobile home, size 20' by 51';, or any replacements thereof, including but not limited to all parts, accessories and accessions thereto at any time made or acquired.

Two Behlen steel grain bins, 250 ton capacity and two Behlen steel grain bins, 100 ton capacity and any replacements thereof, including but not limited to all motors, augers, and electrical panels and appurtenances thereto.

INITIALS: PNL MA

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co the 21st day of April A.D., 19 94 at 9:25 o'clock A M., and duly recorded in Vol. M94 of Mortgages on Page 11831.

FEE \$35.00

Evelyn Biehn, County Clerk

By R. Biehn