

MTC 34083-KK

After Recording Return to:

Farm Credit Services, Klamath Falls  
 900 Klamath Avenue  
 PO Box 148  
 Klamath Falls, OR 97601

Customer/Note No: 33672 - 442

**Deed of Trust**

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

On October 24, 1994, Bruce K. McElowney and Pam J. McElowney, husband and wife, hereinafter called Grantors, whose address is

23770 S. Poe Valley Rd  
 Klamath Falls, OR 97603

grant, convey, warrant, transfer and assign to Mountain Title Company, of Klamath County, a corporation, hereinafter called Trustee, whose address is 222 S. 6th Street, Klamath Falls, OR 97601, in trust with power of sale for the benefit of Northwest Farm Credit Services, A.C.A., 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 as follows:

**PARCEL 1**

Lots 1, 8 and 9, Section 3, and Lot 13, Section 2, Township 40 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, and a portion of Lots 4, 5 and 12, Section 2, said Township and Range, being described as follows:

Beginning at a point on the North line of Government Lot 4, said Section 2, Township 40 South, Range 11 East of the Willamette Meridian, Klamath County Oregon which bears West along the North line of said Section 2, a distance of 2356.4 feet from the Northeast corner of Government Lot 3 in said Section 2, said point being the Northwest corner of tract described in Deed from Melvin D. Fiegi, et ux., to Ben F. Smith, Inc., dated March 29, 1973, recorded March 30, 1973 in Book M73 at page 3700 Microfilm Records of Klamath County, Oregon; thence South 407 feet; thence West 50.0 feet; thence South 618.0 feet; thence East 517.0 feet; thence Southeasterly in a straight line 1008.0 feet more or less to the most Westerly point of tract described as Parcel 3 in Deed from Millet Ranch to Ben F. Smith, Inc., dated June 27, 1972, recorded July 7, 1972 in Book M72 at page 7365, Microfilm Records of Klamath County, Oregon; thence South 01 degrees 40' East a distance of 824.2 feet to a point; thence North 88 degrees 45' East along the Southerly boundary of said parcel to the Northwest corner of that parcel described in Book 357 at page 339, Deed Records of Klamath County, Oregon, said point being on the West line of Government Lot 11 and the East line of Government Lot 12; thence South along said boundary line of Lots 11 and 12 to the Southeast corner of Lot 12; thence West to the West line of said Section 2; thence North along said West line to the North line of said Section 2, thence East along said North line to the point of beginning,

SAVING AND EXCEPTING a parcel of land situated in Government Lots 5, 12 and 13 in Section 2, Government Lots 8 and 9, Section 3, Township 40 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the North 1/16 corner common to said Sections 2 and 3; thence North 1365.49 feet to a 1/2 inch pipe described in Volume 2 at page 183 of the Klamath County Road Records; thence North 1350.00 feet to the true point of beginning of this description; thence West 1357 feet, more or less, to the West line of said Government Lot 8, thence Southerly along the Westerly line of said Government Lots 8 and 9, 1359.01 feet to a point in the centerline of Schuapp Road; thence North 89 degrees 37' 20" East 360.07 feet to said 1/2 inch pipe; thence South 1365.49 feet to said North 1/16 corner; thence South 89 degrees 04' 32" East along the centerline of Bedford Road as constructed, 1297.4 feet, more or less to the East line of Government Lot 13, thence Northerly along the East line of said Government Lots 13, 12 and 5, 2736.50 feet to a point; thence West 1277.40 feet to the true point of beginning.

EXCEPTING THEREFROM that portion lying within the boundaries of South Poe Valley Road.

**PARCEL 2**

The SW1/4 SW1/4 and that portion of Government Lot 12, Section 35, Township 39 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon lying Southwesterly of the centerline of Lost River, and Westerly of the West line of the following described parcel:

Deed Of Trust (33672-442)

A parcel of land situate in Government Lots 12, 13 and the SE1/4 SE1/4 of Section 35, Township 39 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the South line of said Section 35 which bears North 89 degrees 53' West a distance of 803.4 feet from the Southeast corner of said Section 35; thence continuing along said South line North 89 degrees 53' West a distance of 2180.6 feet to the Southwest corner of tract described in Deed from Rockne Lane Fiegi to Ben F. Smith, Inc., dated October 25, 1974, recorded November 4, 1974, in Volume M74, Page 14245, Deed Records of Klamath County, Oregon; thence North 01 degrees 01' East along the West line and West line extended of last mentioned tract a distance of 753.1 feet to the center of Lost River; thence Northeastly along the centerline of Lost River a distance of 1125 feet, more or less, to the most Northerly point of tract described as Parcel #1 in Deed from Millet Ranch to Ben F. Smith, Inc., dated June 27, 1972, recorded July 7, 1972 in Volume M72 page 7365, Deed Records of Klamath County, Oregon; thence South 59 degrees 19' East a distance of 953.0 feet to a point; thence South 33 degrees 29' East a distance of 869.0 feet, more or less, to the point of beginning, LESS portion contained in the right of way of South Poe Valley Road.

Tax Account Nos.: 4011-00200-00:00; 4011-00300-001:00; 3911-V3500-00400;

All irrigation equipment, now owned and used, in whole or in part, to irrigate the mortgaged property, together with all similar goods which may be acquired at any time, any additions, replacements, substitutions and accessions;

and 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 is hereinafter called the "Property."

The following described Note(s), Membership Agreements, 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	PRINCIPAL AMOUNT	FINAL INSTALLMENT DATE
October 24, 1994	\$ 204,200.00	November 1, 2024

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.

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

1. That they have title to the Property free from encumbrances, except as described above, 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 who may hereafter claim; 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 above.
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 and cultivate 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; and Beneficiary shall have the right to enter upon the Property to make full inspection of the Property.
4. To maintain casualty insurance, naming Beneficiary as loss payee, on all buildings and improvements, against loss or damage by fire or 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 hereof 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 or for any purpose that poses an unreasonable risk of harm, or that impairs or may impair the value of the Property, or any part thereof; not to apply residue from waste water treatment facilities to the Property without prior written notice to Beneficiary; 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; to provide Beneficiary copies of any independent test or inspection reports on the environmental status of the Property; 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 above, 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 above; any assignment of any such interest during the term of this deed of trust, naming Beneficiary as an assignee shall be for security purpose 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 laws, 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

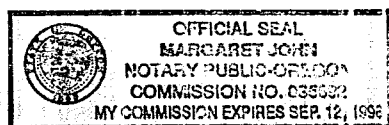
- incurred by Beneficiary to protect or enforce its rights under the Loan Documents, in bankruptcy, appellate proceedings or otherwise, shall be payable on demand and shall become a part of the obligation secured by this deed of trust.
14. That the indebtedness and obligations secured by this deed of 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 proceedings 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. 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.
  16. 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.
  17. That after all sums secured hereby have been paid, upon receipt of the deed of trust and note 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."
  18. 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.
  19. 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.
  20. 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.
  21. 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.
  22. 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.
  23. 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.

Bruce K. McEldowney  
 Bruce K. McEldowney

Pam J. McEldowney  
 Pam J. McEldowney

STATE OF Oregon )  
 )ss.  
 County of Klamath )

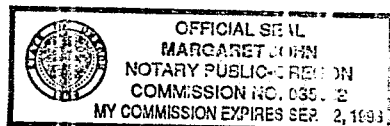
On this 25 day of October, 1994, before me personally appeared Bruce K. McEldowney, to me known to be the person(s) described in and who executed the within instrument, and acknowledged that he/she executed the same as his/her free act and deed.



Margaret John  
 Notary Public for the State of Oregon  
 Residing at Klamath Falls, OR  
 My commission expires 9-12-98

STATE OF Oregon )  
 )ss.  
 County of Klamath )

On this 25 day of October, 1994, before me personally appeared Pam J. McEldowney, to me known to be the person(s) described in and who executed the within instrument, and acknowledged that he/she executed the same as his/her free act and deed.



Margaret John  
 Notary Public for the State of Oregon  
 Residing at Klamath Falls, OR  
 My commission expires 9-12-98

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.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title Co. the 28th day  
 of Oct. A.D., 1994 at 1:43 o'clock P M., and duly recorded in Vol. M94  
 of Mortgages on Page 33566

FEE \$30.00

Evelyn Biehn - County Clerk  
 By Margaret John

Deed of Trust (33072-442)