

USDA-FHA
Form FHA 427-1 UT
(Rev. 7-1-73)

Position 8

REAL ESTATE MORTGAGE FOR UTAH

KNOW ALL MEN BY THESE PRESENTS, Dated NOVEMBER 4, 1974

WHEREAS, the undersigned RICHARD FLEISPACH

and COLLEEN FLEISPACH

residing in Lincoln County, State of Nevada, his wife,

address is P. O. Box 202, Panaca, Nevada, Utah 89042

herein called "Borrower," are (is) justly indebted to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, herein called the "Government," as evidenced by one or more certain promissory note(s) or assumption agreement(s), herein called "note" (if more than one note is described below, the word "note" as used herein shall be construed as referring to each note singly or all notes collectively, as the context may require), said note being executed by Borrower, being payable to the order of the Government in installments as specified therein, authorizing acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and being further described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>	<u>Annual Rate of Interest</u>	<u>Due Date of Final Installment</u>
2-6-70	\$40,000.00	5.0%	2-6-2010
11-4-74	\$26,800.00	5.0%	11-4-2014

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;

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.

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, including any provision for the payment of an insurance or other charge, (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 hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement, Borrower hereby mortgages and

assigns unto the Government the following property situated in the State of Utah, County(ies) of IDOW, & State of Nevada

County of Lincoln,
PARCEL 11

The Southwest Quarter of the Northeast Quarter of Section 2; the Northeast Quarter of the Southwest Quarter; the West half of the Southeast Quarter of Section 2, and the West half of the Northeast Quarter of Section 11, Township 34 South, Range 19 West, Salt Lake Base and Meridian.

continued:

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Together with a perpetual easement from the Springs described a Water User's Claim Nos. 71-172 and 71-353, located on the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 2, and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 34 South, Range 19 West, Salt Lake Base and Meridian, to the contiguous property owned by the grantees herein.

PARCEL 2:

The Southeast Quarter of Section 27; Section 26; the West half of Section 25; the North half of Section 35; the North half of Section 34 in Township 32 South, Range 19 West, Salt Lake Base and Meridian, less 13 acres for roads.

EXCEPTING THEREFROM all mineral rights, including oil and gas from the West half of Section 25 and the East half of Section 26 and the North half of Section 34.

PARCEL 3:

All of Section 32, Township 33 South, Range 18 West, Salt Lake Base and Meridian; the East half and the Southwest Quarter of Section 4, and the Southeast Quarter of Section 5, Township 34 South, Range 18 West, Salt Lake Base and Meridian.

Continued on Exhibit "A", attached hereto and made a part hereof.

together with all rights, interests, easements, hereditaments and appurtenances thereto belonging, the rents, issues, and profits thereof and revenues and income therefrom, all improvements and personal property now or later attached thereto or reasonably necessary to the use thereof, including, but not limited to, ranges, refrigerators, clothes washers, clothes dryers, or carpeting purchased or financed in whole or in part with loan funds, all water, water rights, and water stock pertaining thereto, 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-all of which are herein called "the property";

TO HAVE AND TO HOLD the property unto Trustee, his successors, grantees and assigns forever and in fee simple; IN TRUST, NEVERTHELESS, (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, including any provision for the payment of an insurance or other charge, (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 hereinafter described, and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement.

BORROWER for himself, his 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 required herein to be paid by Borrower and not paid by him when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances for the account of Borrower. 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 as described in 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 his 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.

(Legal description cont.)

EXHIBIT "A"

Page 1

PARCEL 4:

Beginning at the Southwest corner of Section 35, Township 34 South, Range 19 West, Salt Lake Base and Meridian, and running thence North 0°02' East 2643.49 feet; thence North 89°55'39" East 5262.62 feet; thence South 0°01'11" East 1016.67 feet to the North boundary of the Utah State Right-of-Way, thence along said right-of-way South 57°29'02" West 732.06 feet; thence continuing along right-of-way South 57°30'30" West 2308.34 feet; thence West 2700.16 feet to the point of beginning.

PARCEL 5:

Beginning at the Northwest corner of Section 36, Township 34 South, Range 19 West, Salt Lake Base and Meridian, and running thence South 0°01'11" East 2650.15 feet to the West Quarter corner of said section; thence South 0°01'11" West 1016.67 feet; thence along the North boundary of the Utah State Right-of-Way North 57°29'09" East 1570.43 feet; thence continuing along said right-of-way to the point of curvature to the right whose length is 701.69 feet, and radius of 2864.9 feet; thence along the West boundary of the Hamblin Valley Road North 16°35'10" West 2580.2 feet; thence continuing along said right-of-way North 28°32'30" West 33.5 feet; thence South 89°48'24" West 1193.23 feet to the point of beginning.

EXCEPTING THEREFROM that portion lying within the bounds of Modena Townsite.

PARCEL 6:

Beginning at the Southwest corner of Section 25, Township 34 South, Range 19 West, Salt Lake Base and Meridian, and running thence North 0°15'26" East 2640.25 feet to the East Quarter corner of Section 26; thence North 0°15'26" East 397.5 feet; thence along the West boundary of the Hamblin Valley Road South 20°26'10" East 3006.88 feet; thence continuing along said right-of-way South 30°58'30" East 252.0 feet; thence South 89°48'24" West 1193.23 feet to the point of beginning.

PARCEL 7:

Beginning at the Southeast corner of Section 26, Township 34 South, Range 19 West, Salt Lake Base and Meridian, and running thence North 0°15'26" East 2640.25 feet; thence North 89°49'15" West 1325.86 feet; thence South 0°13'06" West 2644.49 feet; thence North 89°58'48" East 1324.38 feet to the point of beginning.

PARCEL 8:

Beginning at the East Quarter corner of Section 26, Township 34 South, Range 19 West, Salt Lake Base and Meridian, and running thence North 0°15'26" East 397.5 feet; thence along the West boundary of the Hamblin Valley Road North 20°26'10" West 268.12 feet; thence North 11°30'54" West 1237.9 feet; thence North 07°07'10" West 255.9 feet; thence North 35°51'30" West 270.5 feet; thence North 71°49'06" West 555.0 feet; thence North 11°44'20" West 141.8 feet; thence North 89°37'20" West 230.52 feet; thence South 0°13'06" West 2644.33 feet; thence South 89°49'15" East 1325.86 feet to the point of beginning.

PARCEL 9:

Lot Seventy-four (74) of SUN GOLD MANOR UNIT NO. 1, as shown upon the map thereof, filed in Book of Plat, Page 63, in the Office of the County Recorder of Lincoln County, Nevada.

Continued:

(Legal Description Cont.)

SCHEDULE "A"

Page 2

Water Users Claim Nos. 71-172, 71-351, 71-353, as amended by Change a-3910, are diverted from three springs and a well drilled to supplement the flow of the springs. Water Users Claim No. 71-768 is a right on Flinspach Wash (Modena Canyon). These four claims are limited to the irrigation requirements of 21.37 acres. Water Users Claim Nos. 71-172, 71-351, 71-353, and 71-767 are used for supplemental stockwatering purposes - 79 cattle and 6 sheep. Water Users Claim Nos. 71-353 and 71-352 are also used for the supplemental domestic requirements of one family. Application No. 39220 (19-125) is a well in Hamblin Valley for stockwatering.

PINYON UNIT:

Eight Mile Spring Allot.	38 C	March 1 to April 30, 61% F.R.	47 AUMs
	38 C	Nov. 1 to Feb. 28, 61% F.R.	93 AUMs
Mt. Elinor Allotment	80 C	March 1 to April 30, 88% F.R.	141 AUMs
	80 C	Dec. 1 to Feb. 28, 88% F.R.	212 AUMs
Modena Canyon Allot.	92 C	May 1 to Oct. 31, 100% F. R.	552 AUMs
			1045 AUMs

Subject, however, to all valid outstanding easements, rights-of-way, mineral leases, mineral reservations and mineral conveyances of record.

* * *

(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, delivered to, and retained by 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, and conveying the property.

(12) 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.

(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 extend and defer the maturity of and renew and reamortize the debt evidenced by the note or any indebtedness to the Government secured hereby, release from liability to the Government any party so liable thereon, release portions of the property from and subordinate the lien hereof, and waive any other rights hereunder, without affecting the lien or priority hereof or the liability to the Government of Borrower or any other party for payment of the note or indebtedness secured hereby except as specified by the Government in writing.

(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 under any personal property or other, 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 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 mortgage, 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, (e) require Borrower to surrender to the Government any and all abstracts of title then owned by Borrower covering all or any part of the property, and (f) 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) As against the debt evidenced by the note and any indebtedness to the Government hereby secured, with respect to the property, Borrower (a) hereby relinquishes, waives, and conveys all rights, inchoate or consummate, of descent, dower, curtesy, homestead, valuation, appraisal, and exemption, to which Borrower is or becomes entitled under the laws and constitution of the jurisdiction where the property lies, and (b) hereby agrees that any right provided by such laws or constitution for redemption or possession following foreclosure sale shall not apply, and that no right of redemption or possession shall exist after foreclosure sale.

(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 him, 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 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 dwelling relating to race, color, religion, or national origin.

15 20 30

(21) 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.

(22) 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 Salt Lake City, Utah 84111, and in the case of Borrower to him at his post office address stated above.

(23) At the option of the Government this mortgage may be foreclosed by action or advertisement as provided by statute, and Borrower hereby irrevocably vests in the Government the statutory power of sale and constitutes and appoints the Government his agent and attorney in fact to sell the property, after due notice, a public auction to the highest bidder, for cash or secured credit at the option of the Government, and to give the purchaser a warranty deed binding upon Borrower and all claiming under him;

(24) Borrower has assigned or waived or will immediately, on request of the Government, assign or waive in favor of the Government all grazing privileges, permits, licenses, or leases appurtenant to or used in connection with said land, and Borrower further covenants and agrees to produce renewals thereof prior to their expiration and to pay all fees and charges and to perform all acts and do all things necessary to keep and preserve all said grazing rights and renewals thereof, and in the event of the failure of Borrower to do any of these things the Government may do so on behalf of Borrower, including advancing such sums as may be necessary for this purpose, and such funds advanced shall be secured by this instrument.

(25) If any provision of this instrument or application thereof 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.

IN WITNESS WHEREOF, Borrower has hereunto set Borrower's hand(s) and seal(s) the day and year first above written.

Richard Flinspach

(Richard Flinspach)

Colleen Flinspach

(Colleen Flinspach)

ACKNOWLEDGMENT

STATE OF UTAH }
COUNTY OF Iron } ss:

On this 18th day of November, 1974, personally appeared before me
RICHARD FLINSPACH and COLLEEN FLINSPACH, his wife,

the signer(s) of the above instrument, who duly acknowledged to me that they executed the same.

(NOTARIAL SEAL)

[Signature]

Notary Public, residing at Cedar City, Utah

My commission expires: 6-10-76

No. 55605
FILED AND RECORDED AT REQUEST OF
1st American Title of Nev.
Dec. 23, 1974
AT 1 MINUTES PAST 9 O'CLOCK
8 A.M. IN BOOK 12 OF OFFICIAL
RECORDS, PAGE 363 LINCOLN
COUNTY, NEVADA.
[Signature]
COUNTY RECORDER