Book 2010 Page 3445

Document 2010 3445 Type 04 001 Pages 4
Date 11/03/2010 Time 2:13:01PM
Rec Amt $24.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

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FORM 5014-IA (4-2008)

RETURN TO: Farm Credit Services of America
Preparer: Angie Kathol
5015 South 118th Street
Omaha, NE 68137
Phone: 402-348-3552

**Farm Credit Services of America**

# REAL ESTATE MORTGAGE - IOWA

***Open-End To Secure Present and Future Obligations and Advances***

**Date**: November 3, 2010

**Mortgagor(s):** Kenneth E. Ries a/ka/ Kenneth Ries and Karen C. Ries a/k/a Karen Ries, husband and wife

**Mailing Address**: PO Box 69, Ryan, IA 52330

2006-628
2006-629

The above named Mortgagor(s) in consideration of the extension of credit identified herein and any future, additional or protective advances made at Mortgagee's option hereby sell, convey, and mortgage to Farm Credit Services of America, PCA and Farm Credit Services of America, FLCA, Mortgagee, its successors and assigns, from the date hereof until all obligations secured hereby are paid in full, the following-described real estate in Delaware and Buchanan County(ies), Iowa, to wit:

**See attached Exhibit 'A'** (Page 4)

131-82
139-188
2000-2754
2000-3303

118-312
119-50
124-172
125-334
131-41

together with all Mortgagor's right, title, and interest in the property, now or hereafter acquired, including: all buildings, fixtures, timber, timber to be cut, crops, and improvements now on or hereafter placed upon the property; all appurtenances, water, water rights, irrigation, and drainage rights; all rents, issues, uses, income, profits, and rights to possession; all oil, gas, gravel, rock, or other minerals of whatever nature, including geothermal resources; all personal property that may integrally belong to or hereafter become an integral part of the real estate whether attached or detached, including any appurtenances and accoutrements of any structure or residence secured hereby; easements and other rights and interests now or at any time hereafter belonging to or in any way pertaining to the property, whether or not specifically described herein; all above and below ground irrigation equipment and accessories; and all leases, permits, licenses, or privileges, appurtenant or nonappurtenant to the property, now or hereafter issued, extended, or renewed by Mortgagor(s), any State, the United States, or any department, bureau, instrumentality, or agency thereof. The foregoing is collectively referred to in this document as the "property."

It is understood and agreed between Mortgagor(s) and Mortgagee that this mortgage is given to secure the repayment in full of the following described obligations, regardless of whether Mortgagor(s) is(are) liable thereon, and all future and additional loans or advances, protective or otherwise, which may be made by Mortgagee, at its option, at the request of, and to or for the account of Mortgagor(s), the parties liable under the note(s) or credit agreement(s) or any of them, for any purpose, plus interest thereon, all payable according to the terms of the note(s), credit agreement(s) or other instrument(s) modifying the same.

**Date of Note(s) or Credit Agreement(s)**

November 3, 2010

***NOTICE: This mortgage secures credit in the amount of $8,415,000.00. Loans and advances up to this amount, together with interest, are senior to indebtedness to other creditors under subsequently recorded or filed mortgages and liens.**

NOTHING CONTAINED HEREIN SHALL CONSTITUTE A COMMITMENT TO MAKE FURTHER OR ADDITIONAL ADVANCES IN ANY AMOUNT AT ANY TIME, WHETHER OR NOT THE TOTAL PRINCIPAL INDEBTEDNESS ABOVE HAS BEEN ADVANCED.

This mortgage will be due December 1, 2025.

Mortgagor(s) hereby warrants that Mortgagor(s) holds fee simple title to the above described property, that Mortgagor(s) has good and lawful authority to mortgage the same, that the property is free and clear of all liens and encumbrances, except encumbrances of record, and that Mortgagor(s) will warrant and defend the property at Mortgagor's expense against all claimants whomsoever. Mortgagor(s) also hereby waives and relinquishes all rights of dower, homestead, distributive share, and exemption in and to the above described property.

**Mortgagor(s) and each of them further covenant and agree with Mortgagee as follows:**

**1.** To pay all liens, judgments, or other assessments against the property, and to pay when due all assessments, taxes, rents, fees, or charges upon the property or under any lease, permit, license, or privilege assigned to Mortgagee as additional security to this mortgage, including those in or on public domain.

**2.** To insure and keep insured buildings and other improvements, including fixtures and attachments now on or hereafter placed on the property to the satisfaction of Mortgagee. Such insurance will be approved by and deposited with Mortgagee, and endorsed with a mortgage clause with loss payable to Mortgagee. Any sums so received by Mortgagee may be applied in payment of any indebtedness matured or unmatured secured by this mortgage, or at the option of Mortgagee may be used to pay for reconstruction of the destroyed improvements. Such insurance will be in an amount at least equal to the lesser of the loan balance, the actual cash value of the collateral, or the replacement cost of the property, and will at a minimum, cover losses caused by fire, lightning, explosion, riot, aircraft, vehicles, vandalism, civil commotion, smoke, windstorm, and hail. Mortgagor(s) will obtain and keep flood insurance in force to cover losses by flood as required by Mortgagee and by the National Flood Insurance Act of 1968, as amended, and by regulations implementing the same. Mortgagor(s) further agrees that Mortgagee is not and will not be liable for any failure by me/us or by any insurer, for whatever reason, to obtain and keep this insurance in force.

**3.** To keep all buildings, fixtures, attachments, and other improvements now on or hereafter placed on the property occupied and in good repair, maintenance, and condition and to neither commit nor permit any acts of waste or any impairment of the value of the property. Mortgagee may enter upon the property to inspect the same or to perform any acts authorized herein or in the credit agreement(s).

**4.** In the event Mortgagor(s) fails to pay any liens, judgments, assessments, taxes, rents, fees, or charges or maintain any insurance on the property, buildings, fixtures, attachments, or improvements as provided herein or in the credit agreement(s), Mortgagee, at its option, may make such payments or provide insurance, maintenance, or repairs and any amounts paid therefor will become part of the principal indebtedness secured hereby, be immediately due and payable and bear interest at the default rate provided in the note(s) or credit agreement(s)from the date of payment until paid. The advancement by Mortgagee of any such amounts will in no manner limit the right of Mortgagee to declare Mortgagor(s) in default or exercise any of Mortgagee's other rights and remedies.

**5.** In the event Mortgagee is a party to any litigation affecting the property or the lien of this mortgage, including any action by Mortgagee to enforce this mortgage or any suit in which Mortgagee is named a defendant (including condemnation and bankruptcy proceedings) Mortgagee may incur expenses and advance payments for abstract fees, attorneys fees (to the extent allowed by law), costs, expenses, appraisal fees, and other charges and any amounts so advanced will become part of the principal indebtedness secured hereby, be immediately due and payable and bear interest at the default rate provided in the note(s) or credit agreement(s) from the date of advance until paid.

**6.** Any awards made to Mortgagor(s) or their successors by the exercise of eminent domain are hereby assigned to Mortgagee; and Mortgagee is hereby authorized to collect and apply the same in payment of any indebtedness, matured or unmatured, secured by this mortgage.

**7.** In the event of default in the payment when due of any sums secured hereby (principal, interest, advancements, or protective advances), or failure to perform or observe any covenants and conditions contained herein, in the note(s), credit agreement(s), or other instrument(s), or any proceeding is brought under any Bankruptcy laws, Mortgagee, at its option, may declare the entire indebtedness secured hereby to be immediately due and payable and the whole will bear interest at the default rate as provided in the note(s) or credit agreement(s) and Mortgagee may immediately foreclose this mortgage or pursue any other remedy at law or equity, including foreclosure by advertisement with a power of sale in Mortgagee to the extent provided by applicable law. Delay by Mortgagee in exercising its rights upon default will not be construed as a waiver thereof and any act of Mortgagee waiving any specific default will not be construed as a waiver of any future default. If the proceeds under such sale or foreclosure are insufficient to pay the total indebtedness secured hereby, Mortgagor(s) does hereby agree to be personally bound to pay the unpaid balance, and Mortgagee will be entitled to a deficiency judgment.

**8.** Upon default, Mortgagee will at once become entitled to exclusive possession, use, and enjoyment of the property and to all rents, issues, crops, profits, and income thereof, from the time of such default and during the pendency of foreclosure proceedings and the period of redemption, the delivery of which may be enforced by Mortgagee by any appropriate suit, action, or proceeding. Mortgagee will be entitled to a Receiver for the property and all rents, issues, crops, profits, and income thereof, without regard to the value of the property, or the sufficiency thereof to discharge the mortgage debt and the foreclosure costs, fees, and expenses. Such Receiver may be appointed by any court of competent jurisdiction upon ex parte application, notice being hereby expressly waived. The Receiver will apply all rents, issues, crops, profits, and income of the property to keep the same in good repair and condition, pay all taxes, rents, fees, charges, and assessments, pay insurance premiums necessary to keep the property insured, pay the expense of the receivership and attorney fees incurred by the Receiver, and apply the net proceeds to the payment of the indebtedness secured hereby. Such Receiver will have all the other usual powers of receivers authorized by law and as the court may direct.

**9.** The integrity and responsibility of the Mortgagor(s) constitutes a part of the consideration for the obligations secured hereby. Should Mortgagor(s) sell, transfer, or convey the property described herein without prior written consent of Mortgagee, Mortgagee, at its option, may declare the entire indebtedness immediately due and payable and may proceed in the enforcement of its rights as on any other default.

**10.** Assignment of Rents including Proceeds of Mineral Leases. Mortgagor(s) hereby assigns, transfers, and conveys to Mortgagee all rents, royalties, bonuses, and delay moneys or other proceeds that may from time to time become due and payable under any real estate lease or under any oil, gas, gravel, rock, or other mineral lease of any kind including geothermal resources now existing or that may hereafter come into existence, covering the property or any part thereof. All such sums so received by Mortgagee will be applied to the indebtedness secured hereby; or Mortgagee, at its option, may turn over and deliver to Mortgagor(s) or their successors in interest, any or all of such sums without prejudice to any of Mortgagee's rights to take and retain future sums, and without prejudice to any of its other rights under this mortgage. This assignment will be construed to be a provision for the payment or reduction of the mortgage debt, subject to the Mortgagee's option as hereinbefore provided, independent of the mortgage lien on the property. Upon payment in full of the mortgage debt and the release of this mortgage of record, this assignment will become inoperative and of no further force and effect.

**11.** This Mortgage constitutes a Security Agreement with respect to all the property described herein.

**12.** The covenants contained in this mortgage will be deemed to be severable; in the event that any portion of this mortgage is determined to be void or unenforceable, that determination will not affect the validity of the remaining portions of the mortgage.

**13. Redemption Period.** If the property described herein is less than ten acres in size and if Mortgagee waives in any foreclosure proceeding any right to a deficiency judgment against Mortgagor(s), then the period of redemption from judicial sale will be reduced to six months. If the court finds that the property has been abandoned by Mortgagor(s) and if Mortgagee waives any right to a deficiency judgment against Mortgagor(s), then the period of redemption from judicial sale will be reduced to sixty days. In addition, if the property described herein is the residence of Mortgagor(s) at the time of foreclosure, but the court finds that after foreclosure the property has ceased to be the residence of Mortgagor(s), then the period of redemption will be reduced to thirty days from the date of a court order so stating. The provisions of this paragraph will be construed to confirm to the provisions of Sections 628.26, 628.27, and 628.28 of the Code of Iowa.

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**HOMESTEAD EXEMPTION WAIVER**

**I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this mortgage, I voluntarily give up my right to this protection for this property with respect to claims based on this mortgage.**

| | Date | | Date |
|---|---|---|---|
| Kenneth E. Ries a/k/a Kenneth Ries | 11/3/10 | Karen C. Ries a/k/a Karen Ries | 11-3-10 |
| Kenneth E. Ries a/k/a Kenneth Ries | 11/3/10 | Karen C. Ries a/k/a Karen Ries | |

STATE OF Iowa )
) ss
COUNTY OF Delaware )

On this 3 day of November, 2010, before me, a Notary Public, personally appeared Kenneth E. Ries a/ka/ Kenneth Ries and Karen C. Ries a/k/a Karen Ries, husband and wife to me known to be the person(s) named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

(SEAL) Joel C Brinkmeyer Commission Number: 758100 My Commission Expires: 04/29/2012

My commission expires _____.

*(Type name under signature)*
Notary Public in and for said County and State

## Exhibit 'A'

**Delaware County:**

The Northeast Quarter (NE¼) of the Southwest Quarter (SW¼) and that part of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) that lies West of the Railroad right of way, in Section Twenty Six (26), Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M.; also Parcel B - In The SW 1/4 Of The SE 1/4 And The SE 1/4 Of The SW 1/4 Of Section Twenty-Six (26), Township Eighty-Seven North (T87N), Range Six West (R6W) Of The Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 138, except Parcel C - Part Of Parcel B In The SE 1/4 Of The SW 1/4 Of Section Twenty-Six (26), Township Eighty-Seven North (T87N), Range Six West (R6W) Of The Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 7 Plats, Page 56.

The West one-half (W½) of the Southwest Quarter (SW¼) of Section Twenty Six (26) and all that part of the Northwest Quarter (NW¼) of Section Thirty Five (35) lying North and West of the right-of-way of the Illinois Central Railway all in Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M., except Parcel D, Part Of The SW 1/4 Of The SW 1/4 Of Sec. 26, T87N, R6W Of The Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2001, Page 1944, also except Parcel E, Part Of The SW 1/4 Of The SW 1/4 Of Sec. 26, T87N, R6W Of The Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2004, Page 1559, and also except Parcel F Part Of The W 1/2 - SW 1/4 Sec. 26, T87N, R6W Of The Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 2007, Page 1385.

The Northwest Quarter (NW¼) and the North one-fourth (N¼) of the North one-half (N½) of the Southwest Quarter (SW¼) of Section Twenty Three (23), Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M., except that part described as commencing at the Southwest corner of said Northwest Quarter (NW¼), thence East five hundred (500) feet, thence North five hundred (500) feet, thence West five hundred (500) feet to the West line of said Section, thence South five hundred (500) feet to the place of beginning.

The East one-half (E½) of the Southeast Quarter (SE¼) of Section Thirty Five (35), Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M., except Parcels 'A' & 'B' In The SE1/4 Of The SE1/4, Section 35, T87N, R6W Of The 5th P.M., Delaware County, Iowa, according to plat recorded in Book 2000, Page 2601.

The Northeast Quarter (NE¼) and the North one-eighth (N 1/8) of the North one-half (N½) of the Southeast Quarter (SE¼) of Section Twenty Three (23), and that part of the North one-half (N½) of the Northwest Quarter (NW¼) of Section Twenty Four (24) lying West of the Railroad right of way, all in Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M., except Parcel A, Part Of The SE 1/4 - NE 1/4, Sec. 23, T87N, R6W Of The Fifth P.M., Delaware County, Iowa, according to plat recorded in Book 1999, Page 3730; the South one-half (S½) of the Northwest Quarter (NW¼) of Section Twenty Four (24), Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M., except railroad right-of-way; also the Southeast Quarter (SE¼) of the Southeast Quarter (SE¼) and that part of the North one-half (N½) of the Southeast Quarter (SE¼) lying East of the railroad right-of-way in Section Twenty Six (26), Township Eighty Seven (87) North, Range Six (6), West of the Fifth P.M.; also Parcel A In The SW 1/4 Of The SE 1/4 And The SE 1/4 Of The SW 1/4 Of Section Twenty-Six (26), Township Eighty-Seven North (T87N), Range Six West (R6W) Of The Fifth Principal Meridian, Delaware County, Iowa, according to plat recorded in Book 6 Plats, Page 138.

**Buchanan County:**

**The Northwest ¼ of the Northwest ¼ and the North 33 feet of the Northeast ¼ of the Northwest ¼ of Section 7, Township 89 North, Range 9 West of the 5th P.M.; The Northeast ¼ of the Southeast ¼ of Section 1 and Northeast ¼ of the Northeast ¼ of Section 12, Township 89 North, Range 10 West of the 5th P.M. Subject to existing easements of records; reservations in United States and state patents; and the rights of the public in all highways.**