

DEED OF TRUST

THIS DEED OF TRUST, made and entered into this 1st day of November, 1974, by and between DONALD R. SMITH and WILMA M. SMITH, his wife, of Hendersonville, North Carolina, hereinafter called Grantors; FIRST COMMERCIAL TITLE, INC., as Trustee; and FILBERT ETCHEVERRY and MICHEL ETCHEVERRY, doing business under the firm name and style of EUREKA LIVESTOCK COMPANY, a partnership, hereinafter called Beneficiaries;

W I T N E S S E T H:

That Grantors hereby grant, transfer and assign to the Trustee in trust, with power of sale, all of the following described real property situate in Lander and Eureka Counties, State of Nevada, more particularly described as follows:

Township 21 North, Range 48 East, M.D.B.&M.

Section 10: NE1/4 SW1/4; NW1/4 SE1/4; S1/2 SE1/4
 19: SE1/4 SW1/4; S1/2 SE 1/4
 29: N1/2 N1/2; S1/2 NW1/4; SW1/4 NE1/4
 30: E1/2 NW1/4; NE1/4; NW1/4 SE1/4
 35: NE1/4 SW1/4; NW1/4 SE1/4

Township 22 North, Range 47 East, M.D.B.&M.

Section 12: S1/2 NW1/4

Township 22 North, Range 48 East, M.D.B.&M.

Section 17: NW1/4 SE1/4
 21: NW1/4 SW1/4

Subject to any easements of record.

TOGETHER WITH all buildings, fences, structures, improvements, barns, corrals and all other improvements located on said real property.

TOGETHER WITH all water, water rights, rights to the use of water, dams, ditches, canals, pipelines, reservoirs, wells, pumps, pumping stations, engines and all other means for the diversion or use of waters appurtenant to the said property or any part thereof, or now or hereafter used or enjoyed in connection therewith, for irrigation, stock watering, domestic, or any other use, or for the drainage of all or any part of said lands, and including all permits, if any, issued by the State Engineer of the State of Nevada, and any and all applications to appropriate water.

TOGETHER WITH all stock watering rights, vested or

permitted, now or heretofore or hereafter used in connection with the use of said lands, including all stock watering sources located on the above described real property, or on any public domain or other lands, and located in the Robert's Creek Unit or the Underwood Unit, said units being administrative units established by the Bureau of Land Management, Department of the Interior.

TOGETHER WITH the following permits, applications or certificates, owned by the First Parties, a particular description of which is set forth herein, without limitation on the general language contained in the foregoing clauses:

Application No. 9058, represented by Certificate of Appropriation No. 2049;

Application No. 4613, represented by Certificate of Appropriation No. 1656;

Application No. 4758, represented by Certificate of Appropriation No. 1657;

Application No. 7424, represented by Certificate of Appropriation No. 1299;

Application No. 7893, represented by Certificate of Appropriation No. 1655;

Application No. 13674.

TOGETHER WITH all range rights and grazing rights, together with all rights to graze livestock on the Public Domain under what is known as the Taylor Grazing Act, in the Robert's Creek and Underwood Units, which units are administrative units established by the Bureau of Land Management, Department of the Interior, and without limitation, any and all other range rights and grazing rights.

TOGETHER WITH all of the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD the same unto the said Trustee and its successors, in trust, to secure the performance of the following obligations and payment of the following debts:

ONE: Payment of an indebtedness evidenced a certain Promissory Note of even date herewith, in the principal amount of EIGHTY THOUSAND SIX HUNDRED and NO/100 (\$80,600.00) DOLLARS,

with interest thereon, expenses, attorney fees and other payments therein provided, executed and delivered by the Grantors payable to the Beneficiaries or order, and any and all extensions or renewals thereof.

TWO: Payment of such additional amounts as may be hereafter loaned by the Beneficiaries to the Grantors or any successor in interest of the Grantors, with interest thereon, expenses and attorney fees, and any other indebtedness or obligations of the Grantors to the Beneficiaries.

THREE: Payment of all other sums with interest thereon becoming due or payable under the provisions hereof to either Trustee or Beneficiaries.

FOUR: Payment, performance and discharge of each and every obligation, covenant, promise and agreement of Grantors herein or in said Note contained and of all renewals, extensions, revisions and amendments of the above-described Note and any other indebtedness or obligation secured hereby.

To protect the security of this Deed of Trust, it is agreed as follows:

1. The Beneficiaries have the right to record notice that this Deed of Trust is security for additional amounts and obligations not specifically mentioned herein but which constitute indebtedness or obligations of the Grantors for which the Beneficiaries may claim the Deed of Trust as security.

2. The Grantors shall: 1) Properly care and keep the property herein described and all buildings, fences, corrals, stock watering facilities, dams, ditches, diversions, wells, pumping equipment, and all other structures, improvements and fixtures thereon in at least the condition, order and repair existing on the date of this Deed of Trust, subject to reasonable wear and tear and replacement, substitution or improvements as

herein provided; 2) not remove or demolish all or any portion of any buildings, fences, corrals, watering troughs, windmills, other fixtures or improvements now situate thereon or hereafter placed thereon unless the same is replaced, improved or substituted therefor by a like item of at least equal value, quality and use; 3) not commit or permit any waste of the land, buildings, improvements and fixtures on said premises; 4) farm, maintain and irrigate the meadow and pasture areas of the premises for which water rights exist in at least the same husbandlike manner as was being applied thereto prior to the date of this Deed of Trust; 5) properly maintain, put to beneficial use and utilize all wells and water rights appurtenant to or used in connection with any portion of the premises as of the date of this Deed of Trust so as not to allow any water rights to be jeopardized, diminished or lost; 6) graze and manage the grazing areas of the lands subject to this Deed of Trust in the manner recognized as good range management in the grazing unit or area in which the lands subject hereto are located; 7) apply for active use and utilize or take non-use of all rights, privileges, preferences, demands, licenses, permits and leases to graze livestock upon the public lands based upon all or any portion of the lands subject to this Deed of Trust and to do all other things reasonably necessary to prevent the loss of, or permanent reduction in such grazing rights, privileges, preferences, demands, licenses, permits and leases through the acts or omissions of Grantors. The Grantors shall not do nor permit to be done, by act or omission, anything which shall impair, lessen, diminish, devalue or deplete the security hereby given.

3. The following covenants, Nos. 1, 2 - (\$12,000.00), 3, 4 - (7%), 5, 6 - (which covenant is deemed to include and apply to all conditions, covenants and agreements contained

herein in addition to those adopted by reference, and to any and all defaults or deficiency in performance of this Deed of Trust and Contract between the Grantors and Beneficiaries which is hereby incorporated by reference as though fully set forth and made a part hereof), 7 - (reasonable), and 8 and 9 of N.R.S. 107.030, are hereby adopted and made a part of this Deed of Trust.

4. All payments secured hereby shall be paid in lawful money of the United States of America.

5. The Beneficiaries and any persons authorized by the Beneficiaries shall have the right to enter upon and inspect the premises at all reasonable times.

6. In case of condemnation of the property subject hereto, or any part thereof, by paramount authority, all of any condemnation award to which the Grantors shall be entitled less costs and expenses of litigation is hereby assigned by the Grantors to the Beneficiaries, who are hereby authorized to receive and receipt for the same and apply such proceeds as received toward the payment of the indebtedness hereby secured, whether due or not.

7. Grantors hereby give to and confer upon Beneficiaries the right, power and authority, during the continuance of these trusts, to collect the rents, issues and profits of the property, RESERVING UNTO GRANTORS, HOWEVER, the right, prior to any default by Grantors in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiaries may at any time with or without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured,

enter upon and take possession of said property or any part thereof, in the Beneficiaries own name due for or otherwise collect such rents, issues and profits, (including those past due and unpaid), and apply the same less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiaries may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

8. If default be made in the payment of the obligations, note or debt secured hereby or in the performance of any of the terms, conditions or covenants of this Deed of Trust, or the payment of any sum payable hereunder, or upon the occurrence of any act or event of default hereunder, or default in payment of any monies due on account or other obligations secured by a Deed or Deed of Trust encumbering the real property the subject of this Deed of Trust securing this Note and prior in right to this Deed of Trust securing this Note, Beneficiaries may declare all notes, debts and sums secured hereby or payable hereunder immediately due and payable although the date of maturity has not arrived.

9. The Promissory Note secured by this Deed of Trust is made a part hereof as if fully herein set out.

10. The commencement of any proceeding under the bankruptcy or insolvency laws by or against any of the Grantors, or against any of the Makers of the Note secured hereby; or the appointment of a receiver for any of the assets of any Grantors hereof or any Makers of the Note secured hereby; or the making by any of the Grantors or any Makers of the Note secured hereby

of a general assignment for the benefit of creditors, shall constitute a default under this Deed of Trust.

11. Default under any other Deed of Trust, mortgage, contract, or other instrument, which is, or which creates, a lien, encumbrance, charge or interest of any nature on or in any of the property subject hereto having priority over any lien, right or interest created or existing under this Deed of Trust, or failure to pay or discharge when due any obligation which is secured by, or which constitutes a lien, encumbrance, charge or interest of any nature on or in any property subject hereto having priority over any lien, right or interest created or existing under this Deed of Trust, whether such obligations or the lien thereof is created by writing or otherwise, shall constitute a default under this Deed of Trust.

12. To the extent permitted by the laws of the State of Nevada, Grantors agree to pay any deficiency arising from any cause after application of the proceeds of any sale held in accordance with the provisions hereof and agree to pay all costs and reasonable attorney's fees incurred in any action brought to collect said deficiency.

13. Any notices to be given Grantors shall be given by registered or certified mail to Grantors at the address set forth near the signatures on this Deed of Trust or at such substitute address as Grantors may designate in writing duly delivered to Beneficiaries and Trustee, and such address as set forth in this Deed of Trust, or such substitute address as is designated in writing duly served as aforesaid, shall be deemed conclusively to be the correct address of Grantors for all purposes in connection with said Deed of Trust, including, but not limited to, giving of notices permitted or required by statute to be mailed to Grantors.

14. In the event of a loss covered by a fire insurance policy, all insurance proceeds shall be delivered into escrow with First National Bank of Nevada, Eureka Branch, Eureka, Nevada. The Grantors shall have the option to use the proceeds of such insurance toward the repair, rebuilding or replacement of the damaged or destroyed property. If the Grantors have not commenced the repair or reconstruction within six months after the loss, then the Grantors shall apply said proceeds against the principal and accrued interest balance owing on the purchase price after December 1, 1975.

15. The rights and remedies herein granted shall not exclude any other rights or remedies granted by law, and all rights or remedies granted hereunder, or permitted by law, shall be concurrent and cumulative.

16. All of the provisions of this instrument shall inure to the benefit of and be binding upon the heirs, executors, successors and assigns of each party hereto respectively as the context permits.

17. It is expressly agreed that the trusts created hereby are irrevocable by the Grantors.

18. The Grantors hereby covenant and agree that neither the acceptance nor existence, now or hereafter, of other security for the indebtedness secured hereby, or the full or partial release or discharge thereof, shall operate as a waiver of the security of this Deed of Trust, nor shall this Deed of Trust nor its satisfaction nor reconveyance made hereunder operate as a waiver of any such other security now held or hereafter acquired.

IN WITNESS WHEREOF, the Grantors have executed these presents the day and year first hereinabove written.

Donald R. Smith
DONALD R. SMITH

Wilma M. Smith
WILMA M. SMITH

GRANTORS' ADDRESS: Route 8, Box 90
Hendersonville, N.C. 28739

STATE OF NORTH CAROLINA)
COUNTY OF) SS.

On this 22 day of November, 1974, personally appeared before me, a Notary Public, DONALD R. SMITH and WILMA M. SMITH, his wife, who acknowledged to me that they executed the foregoing instrument.

James C. Coleman
NOTARY PUBLIC



RECORDED AT THE REQUEST OF Charles B. Evans, Jr.
on Dec. 16 1974, at 16 mins. past 11 A. M. in
Book 50 of OFFICIAL RECORDS, page 367-375, RECORDS OF
EUREKA COUNTY, NEVADA. James C. Coleman Recorder
File No. 59536 Fee \$ 11.00
FILE NO. 59536