

62842

DEED OF TRUST

THIS DEED OF TRUST, made this 14<sup>th</sup> day of March 1977, by and between JOSEPH JOHN BERRUETA and PATRICIA M. BERRUETA, his wife, as Grantors, and FRONTIER TITLE COMPANY, as Trustee, and JULIAN GOICOECHEA and MADELEINE GOICOECHEA, his wife, of Eureka, Nevada, 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 the County of Eureka, State of Nevada, more particularly described as follows, to-wit:

Township 21, North, Range 53 East, MDB&M  
Section 23: S $\frac{1}{2}$  and consisting of three  
hundred twenty (320) acres, more or less.

TOGETHER WITH all buildings and improvements  
situate thereon.

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

TOGETHER WITH all water, water rights, rights  
to the use of water, dams, ditches, canals,  
pipelines, reservoirs, wells, rights of way,  
and all other means for the diversion or use  
of water appurtenant to the said property or  
any part thereof, or now or hereafter used  
or enjoyed in connection therewith, for irri-  
gation, domestic or any other use, or for the  
drainage of all or any part of said lands,  
including vested water rights, permitted water  
rights and certified water rights, together  
with all certificates of appropriation and any  
and all applications to appropriate the waters  
of the State of Nevada, which are appurtenant  
to the above described real property, or any  
part thereof, or used or enjoyed in connection  
therewith.

EXCEPTING THEREFROM all oil and gas as reserved  
in Patent executed by UNITED STATES OF AMERICA  
recorded on July 16, 1962, in Book 26 of Deeds  
at Page 240, Eureka County, Nevada.

SUBJECT TO: Easements and reservations contained  
in the Patent from the UNITED STATES OF AMERICA  
recorded in Book 26, Page 240, Deed Records,  
Eureka County, Nevada, which recite as follows:

". . . Subject to any vested and accrued water  
rights for mining, agricultural, manufacturing,  
or other purposes, and rights to ditches and  
reservoirs used in connection with such water

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BOOK 58 PAGE 459

rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all the oil and gas in the lands so patented and to it, or persons authorized by it, the right to prospect for, mine, and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of July 17, 1914 (38 Stat. 509)."

SUBJECT TO: An Easement over the Westerly 33 feet of said land for a drainage ditch and incidental purposes as granted to RUBY HILL MINING COMPANY, by instrument recorded November 26, 1963, in Book 2, Page 11, Official Records, Eureka County, Nevada.

SUBJECT TO: An Easement over a portion of the land (location undisclosed) for electric transmission and/or distribution line or system as granted to Mt. Wheeler Power, Inc., by Deed recorded December 1, 1971, in Book 41, Page 65, Official Records, Eureka County, Nevada.

TO HAVE AND TO HOLD the same unto 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 by a certain Promissory Note dated the 14<sup>th</sup> day of March, 1977, in the principal amount of ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000.00) with the 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 obligation 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 Notes 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

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BOOK 58 PAGE 460 <sup>2</sup>

not specifically mentioned herein but which constitute indebtedness or obligations of the Grantors for which the Beneficiaries may claim this Deed of Trust as security.

2. The Grantors shall: 1) properly care for and keep the property herein described and all buildings, fences, 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 improvement as herein provided; 2) not remove or demolish all or any portion of any buildings, fences, and 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 property for which water rights exist in at least the same husbandmanlike 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 by abandonment or forfeiture.

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 ( None ); 3; 4 (8%); 5; 6; 7 (reasonable); 8; and 9 of N.R.S. 107.030 are hereby adopted and made a part of this Deed of Trust. In connection with Covenant No. 6, it shall be 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 deficiencies in the performance 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. If default be made in the performance or payment of the obligation, note or debt secured hereby or in the performance of any of the terms, conditions and covenants of this Deed of Trust, or the payment of any sum or obligation to be paid hereunder, or upon the occurrence of any act or event of default hereunder, and such default is not cured within thirty-five (35) days after written notice of default and of election to sell said property given in the manner provided by N.R.S. 107.080 as in effect on the date of this Deed of Trust, Beneficiaries may declare all notes, debts and sums

secured hereby or payable hereunder immediately due and payable although the date of maturity has not yet arrived.

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

9. The commencement of any proceeding under the bankruptcy or insolvency laws by or against any of the Grantors or any of the makers of the Note secured hereby; or the appointment of receiver for any of the assets of any of the Grantors hereof or the makers of the Note secured hereby, or the making by any of the Grantors or the makers of the Note secured hereby of a general assignment for the benefit of creditors, shall constitute a default under this Deed of Trust.

10. The Beneficiaries may without notice to or consent of the Grantors extend the time of the payment of any indebtedness secured hereby to any successor in interest of the Grantors without discharging the Grantors from the liability thereon. If the Grantors shall without the consent of the Beneficiaries sell, convey or alienate said property or any part thereof or any interest therein or shall be divested of his title in any manner or way, whether voluntary or involuntary, any indebtedness or obligation secured hereby irrespective of the maturity dates expressed in any Note evidencing the same, at the option of the holder, and without demand or notice, shall immediately become due and payable. At any time or from time to time without liability therefor and without notice, upon written request of the Beneficiaries, and without affecting the personal liability of any person for the payment of the indebtedness secured by the First Deed of Trust, the Trustee may reconvey any part of the property; join and grant in any easement thereon or join in any extension agreement or any agreement subordinating the lien or charge of the Deed of Trust.

11. 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.

12. All the provisions of this instrument shall inure to and bind the heirs, legal representatives, successors and assigns of each party hereto respectively as the context permits. All obligations of each Grantor hereunder shall be joint and several. The word "Grantor" and any reference thereto shall include the masculine, feminine and neuter genders and the singular and plural, as indicated by the context and number of parties hereto.

13. Any notice given to Grantors under Section 107.080 of N.R.S. of in connection with this Deed of Trust shall be given by registered or certified letter to the Grantors addressed to the addresses set forth near the signatures on this Deed of Trust, or at such substitute addresses as Grantors may direct in writing to Beneficiaries and such notice shall be binding upon the Grantors and all assignees or grantees of the Grantors.

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

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

Grantors' Address:

P. O. Box 684  
Nampa, Idaho 83651

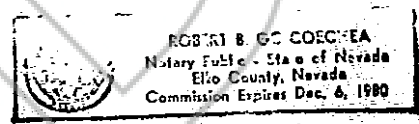
*Joseph John Berrueta*  
JOSEPH JOHN BERRUETA

*Patricia M. Berrueta*  
PATRICIA M. BERRUETA

STATE OF NEVADA )  
                          ) SS.  
COUNTY OF ELKO )

On March 14<sup>th</sup>, 1977, personally appeared before me, a Notary Public, JOSEPH JOHN BERRUETA and PATRICIA M. BERRUETA, who acknowledged that they executed the above instrument.

*Robert B. Goicoechea*  
NOTARY PUBLIC



RECORDED AT THE REQUEST OF Frontier Title Company  
on April 11, 1977, at 50 mins. past 10 A.M. in  
Book 58 of OFFICIAL RECORDS, page 459-463, RECORDS OF  
EUREKA COUNTY, NEVADA. WILLIS A. DePAOLI Recorder  
File No. 62842 Fee \$ 7.00

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5  
BOOK 58 PAGE 463