

Submitted for Recordation
By and Return to

98547



Bank of America

NATIONAL TRUST AND SAVINGS ASSOCIATION
Mid-Valley Corporate/
Agribusiness Banking Group #1443
P.O. Box 760
Woodland, CA 95695

Office
Address
City
State
Zip

SPACE ABOVE THIS LINE FOR RECORDER'S USE

This Deed of Trust, made this 30th day of July, 19 84.

BETWEEN Daniel H. Russell and Roberta A. Russell, who are married to each other

DHR as TRUSTORS
(Initials) Washoe Title Guaranty Company, Nevada

("Trustor" to be interpreted as "Trustors" where context requires), ~~WASHOE TITLE GUARANTY COMPANY, a Nevada corporation,~~
as TRUSTEE, and BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION, a national banking association, as
BENEFICIARY.

WITNESSETH: That Trustor IRREVOCABLY GRANTS, TRANSFERS and ASSIGNS to TRUSTEE, IN TRUST, WITH POWER OF

SALE, the following described property situate in the _____ Nevada

_____ County of Nye and Eureka DHR State of Nevada, to-wit:

All that certain real property situate in the County of Nye and County of Eureka,
State of Nevada, more particularly described as follows:

Exhibit A consisting of 1 page

See Exhibit B attached hereto for additional terms and provisions of this deed of trust.

including all appurtenances and easements used in connection therewith, all water and water rights (whether riparian, appropriative, or otherwise, and whether or not appurtenant) used in connection therewith, all shares of stock evidencing the same, pumping stations, engines, machinery, pipes and ditches, including also all gas, electric, cooking, heating, cooling, air conditioning, refrigeration and plumbing fixtures and equipment which have been or may hereafter be attached in any manner to any building now or hereafter on the said property, or to the said property, and also the rents, issues and profits thereof, SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon the Beneficiary to collect and apply such rents, issues and profits.

FOR THE PURPOSE OF SECURING: (1) Payment of the sum of \$ 9,431,000.00 with interest thereon according to the terms of a promissory note or notes dated 1-23-84, made by Trustor, payable to the order of the

Beneficiary, and extensions or renewals thereof; (2) payment of any and all obligations and liabilities, whatsoever, whether primary, secondary, direct, indirect, fixed or contingent, which are now due or may hereafter become due from Trustor (or any of them or any successor in interest to Trustor or any of them) whether created directly or acquired by assignment if the document evidencing any such other obligation or liability or any other writing signed by Trustor (or any of them or any successor in interest to Trustor or any of them) specifically provides that said obligation is secured by this deed of trust; (3) performance of each agreement of Trustor herein contained; and (4) payment of all sums to be made by Trustor pursuant to the terms hereof.

TO PROTECT THE PROPERTY AND SECURITY GRANTED BY THIS DEED OF TRUST, TRUSTOR AGREES:

(a) Properly to care for and keep said property and buildings and improvements situate thereon in good condition and repair; to underpin and support, when necessary, any building or other improvement situate thereon, and otherwise to protect and preserve same; not to remove or demolish any building or improvement which may be constructed, damaged or destroyed thereon, and pay in full all costs incurred therefor; not to commit or permit waste of the property; to comply with all laws, covenants, conditions or restrictions affecting the property; in the case of a leasehold estate, to observe and perform all obligations of Trustor under any lease or leases and to take any action required and to refrain from taking any action prohibited, as necessary, to preserve and protect the leasehold estate and the value thereof; to provide and maintain fire (and if required by Beneficiary, earthquake, mortgage guaranty and other) insurance satisfactory to and with loss payable solely to Beneficiary, and to deliver all policies to Beneficiary, which delivery shall constitute assignment to Beneficiary of all return premiums; to appear in and defend, without cost to Beneficiary or Trustee, any action or proceeding purporting to affect the security hereunder, or the rights or powers of Beneficiary or Trustee, and, when required by Trustee or Beneficiary, to commence and maintain any action or proceeding necessary to protect such security and such rights or powers; and should Trustee or Beneficiary elect to appear in, defend, or commence and maintain any such action or proceeding, (including any proceedings under law relating to insolvency or bankruptcy) to pay all their costs and expenses, including attorney fees; to pay before delinquency, all taxes, assessments and charges affecting the property, including assessments on appurtenant water stock; to pay when due all encumbrances, charges and liens affecting or purporting to affect title to said property; to pay all costs, fees and expenses of this trust; if said property be agricultural, to farm said land in an approved and husbandlike manner, and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed and fumigated; to replace all dead or unproductive vines or trees with new ones; and to keep all buildings, fences, ditches, canals, wells and other farming improvements on said premises in first class condition, order and repair. At the request of Beneficiary, Trustor will monthly pay to Beneficiary an amount equal to one-twelfth (1/12th) of the annual cost of taxes and assessments on the property together with an amount equal to the estimated next fire or fire and earthquake and other required insurance premiums divided by the number of months between the date of computation and the date of payment of the said insurance premium; said accumulated funds will be released to Trustor for payment of taxes, assessments and insurance premiums, or may be so directly applied by Beneficiary, if Beneficiary so elects.

(b) Should Trustor fail to make any payment or do any act as herein provided, then Beneficiary or Trustee (but without obligation so to do, and without notice to or demand upon Trustor, and without releasing Trustor from any obligation hereunder) may make or do the same, and may pay, purchase, contest or compromise any encumbrance, charge or lien, which in the judgment of either appears to affect said property; and in exercising any such powers, incur any liability and expend whatever amounts in its absolute discretion it may deem necessary therefor. All sums so incurred or expended by Beneficiary or Trustee shall be secured hereby and, without demand, shall be immediately due and payable by Trustor and shall bear interest at the rate of ten percent per annum; provided, however, that at the option of Beneficiary or Trustee such sums may be added to the principal balance of any indebtedness secured hereby and shall bear the same interest as such indebtedness and be payable ratably over the remaining term thereof.

IT IS MUTUALLY AGREED THAT:

1. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire or earthquake, or in any other manner, Beneficiary shall be entitled, at its option, to commence, appear in and prosecute in its own name, any action or proceeding, or to make any compromise or settlement, in connection with such taking or damage, and to obtain all compensation, awards or other relief therefor. All such compensations, awards, damages, rights of action and proceeds, including the proceeds of any policies of insurance affecting said property, are hereby assigned to Beneficiary, who may release any money so received by it, or apply the same on any indebtedness secured hereby. In the event that anyone shall establish and exercise any right to develop, bore for or mine for any water, gas, oil, or mineral on or under the surface of the property, any sums that may thereafter become due and payable to the Trustor as bonus or royalty shall be considered rent hereunder, and such sums, together with damages and other compensation payable to the Trustor by reason of the exercise of such rights are hereby made subject to this deed of trust and shall be applied in accordance with the provisions hereof. Trustor agrees to execute such further assignments of any compensation, award, damages and rights of action and proceeds, as Beneficiary or Trustee may require. The Trustee or Beneficiary may enter upon the property at any time during the existence of this trust for the purpose of inspection, or for the accomplishment of any of the purposes hereof.

2. By accepting payment of any sum hereby secured after its due date, or after the filing of notice of default and of election to sell, Beneficiary shall not waive its right to require prompt payment when due of all other sums so secured, or to declare default for failure so to pay, or to proceed with the sale under any such notice of default and of election to sell, for any unpaid balance of said indebtedness. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after the sale is made hereunder, and on any default of Trustor, Beneficiary may, at its option, offset against any indebtedness owing by it to Trustor, the whole or any part of the indebtedness secured hereby.

3. Without affecting the liability of any person, including Trustor, for the payment of any indebtedness secured hereby, or the lien of this deed of trust on the remainder of the property for the full amount of any indebtedness unpaid, Beneficiary may from time to time and without notice (a) release any person liable for the payment of any of the indebtedness, (b) extend the time or otherwise alter the terms of payment of any of the indebtedness, (c) accept additional security therefor of any kind, including deeds of trust or mortgages, (d) alter, substitute or release any property securing the indebtedness; Trustee may, at any time and from time to time, upon the written request of Beneficiary (a) consent to the making of any map or plat of the property, (b) join in granting any easement or creating any restriction thereon, (c) join in any subordination or other agreement affecting this deed of trust or the line or charge thereof, (d) reconvey, without any warranty, all or any part of the property.

4. Upon payment in full of all sums secured hereby, and performance of all obligations of the Trustor hereunder, the Trustee shall reconvey, without warranty, the estate vested in it hereby. The grantee in any reconveyance made pursuant to this deed of trust may be described as "the person or persons legally entitled thereto," and the recitals therein of any matters or facts shall be conclusive proof of the truthfulness thereof.

5. If default be made in the payment when due of any part or instalment of principal or interest of the note or notes specifically referred to above or in the payment of any other indebtedness secured hereby or in the event Trustor or any successor in interest to Trustor in the property sells, conveys, alienates, assigns or transfers said property, or any part thereof, or any interest therein, or drills or extracts or enters into any lease for the drilling or extraction of oil, gas, or other hydrocarbon substances or any mineral of any kind or character therefrom or from any part thereof, or becomes divested of his title or any interest therein in any manner or way, whether voluntary or involuntary, or upon default by Trustor in the performance of any agreement hereunder, or in the event and at any time after anyone establishes and exercises any right to develop, bore for or mine for any water, gas, oil or mineral on or under the surface of the property, Beneficiary shall have the right, at its option to declare said note or notes and any other indebtedness or obligation secured hereby, irrespective of the maturity date specified in any note or written agreement evidencing the same, immediately due and payable without notice or demand, and no waiver, of this right shall be effective unless in writing and signed by Beneficiary.

6. Waiver of a right granted to Beneficiary hereunder as to one transaction or occurrence shall not be deemed to be a waiver of the right as to any subsequent transaction or occurrence. Beneficiary may rescind any notice before Trustee's sale by executing a notice of rescission and recording the same. The recording of such notice shall constitute also a cancellation of any prior declaration of default and demand for sale, and of any acceleration of maturity of indebtedness affected by any prior declaration or notice of default. The exercise by Beneficiary of the right of rescission shall not constitute a waiver of any default then existing or subsequently occurring, nor impair the right of the Beneficiary to execute other declarations of default and demand for sale, or notices of default and of election to cause the property to be sold, nor otherwise affect the note or deed of trust, or any of the rights, obligations or remedies of the Beneficiary or Trustee hereunder.

7. At least three months having elapsed between the recording of the notice of default and the date of sale, Trustee, having first given notice of sale as then required by law, and without demand on trustor, shall sell the property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate parcels and in such orders as the Trustee may determine, at public auction to the highest bidder for cash, in lawful money of the United States of America, payable at the time of sale. Trustee may postpone sale of all or any portion of the property by public announcement at the time of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the previous postponement, and without further notice it may make such sale at the time to which the same shall be postponed. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty expressed or implied. The recital in any such deed of any matters or facts, stated either specifically or in general terms, or as conclusions of law or fact, shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. After deducting all costs, fees and expenses of Trustee and of his trust, including costs of evidence of title in connection with the sale, the Trustee shall apply the proceeds of the sale to the payment of all sums then secured hereby, in such order and manner as may be required by the Beneficiary; the remainder, if any, to be paid to the person or

P.H.R. K.A. (Initials)

P.H.R. K.A. (Initials)

persons legally entitled thereto. If Beneficiary shall elect to bring suit to foreclose this deed of trust in the manner and subject to the provisions, rights and remedies relating to the foreclosure of a mortgage, Beneficiary shall be entitled to a reasonable sum to be fixed by the court as attorney's fees expended in the prosecution of said action.

8. Trustor hereby gives to and confers upon Beneficiary the right, power and authority during the continuance of these trusts to collect the rents, issues and profits of said property and of any personal property located thereon with or without taking possession of the property affected hereby, and absolutely and unconditionally assigns all such rents, issues and profits to Beneficiary; provided, however, that Beneficiary hereby consents to the collection and retention of such rents, issues and profits as they accrue and become payable only if Trustor is not, at such times, in default with respect to payment of any indebtedness secured hereby or in the performance of any agreement hereunder. Upon any such default, Beneficiary may at any time, 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, and in its own name sue 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 fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, harvest, remove, and sell any crops that may be growing upon the premises, and apply the proceeds thereof upon the indebtedness secured hereby. 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 waive or cure any default or notice of default hereunder, or invalidate any act done pursuant to such notice. Trustor also assigns to Trustee, as further security for the performance of the obligations secured hereby, all prepaid rents and all monies which may have been or may hereafter be deposited with said Trustor by any lessee of the premises herein described, to secure the payment of any rent, and upon default in the performance of any of the provisions hereof, Trustor agrees to deliver such rents and deposits to the Trustee.

9. Any Trustor who is a married person hereby expressly agrees that recourse may be had against his or her separate property for any deficiency after the sale of the property hereunder.

10. The pleading of any statute of limitations as a defense to any and all obligations secured by this deed of trust is hereby waived to the full extent permissible by law.

11. Trustor further agrees that Beneficiary may from time to time and for periods not exceeding one year, in behalf of the Trustor, renew or extend any promissory note secured hereby, and said renewal or extension shall be conclusively deemed to have been made when endorsed on said promissory note or notes by the Beneficiary in behalf of the Trustor.

12. Beneficiary may from time to time, substitute another Trustee in the place of the Trustee herein named, to execute this trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all the title, powers and duties conferred upon the Trustee herein named. Each such appointment and substitution shall be made by written instrument executed by the Beneficiary, containing reference to this deed of trust sufficient to identify it, which, when recorded in the office of the County Recorder of the county or counties in which the property is situated, shall be conclusive proof of the proper appointment of the successor trustee.

13. This deed of trust shall inure to and bind the heirs, devisees, legal representatives, successors and assigns of the parties hereto. All obligations of each Trustor hereunder are joint and several. The rights or remedies granted hereunder, or by law, shall not be exclusive, but shall be concurrent and cumulative.

14. For any statement regarding the obligations secured hereby, Beneficiary may charge the maximum amount permitted by law at the time of the request therefor.

If a mailing address is set forth opposite any Trustor's signature hereto, and not otherwise, the undersigned Trustor shall be deemed to have requested that a copy of any notice of default, and of any notice of sale hereunder, be mailed to said Trustor at said address.

MAILING ADDRESS FOR NOTICES

| Street | City and State | Signature of Trustor |
|---------------------|--------------------------|---|
| c/o Mull & McCarthy | Old Sacramento, CA 95814 | <i>Daniel H. Russell</i> Daniel H. Russell |
| 1001 Second Street | | <i>Roberta A. Russell</i> Roberta A. Russell |
| | | |
| | | |

State of California
County of SACRAMENTO
On this 3rd day of August, in the year 1984, before me, Shirley Paiz Lyman
a Notary Public in and for the _____ County, personally appeared DANIEL H. RUSSELL & ROBERTA A. RUSSELL
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is subscribed to this Instrument,
and acknowledged that ~~it is~~ they executed it.

(SEAL)



WITNESS my hand and official seal.

Signature:

Shirley Paiz Lyman

EXHIBIT A

All that certain real property situate in the County of Nye and County of Esmeralda, State of Nevada, more particularly described as follows:

☑ DFR
Esmeralda

PARCEL I:

All that certain lot, piece or parcel of land situate in the County of Nye, State of Nevada, more particularly described as follows:

TOWNSHIP 14 NORTH, RANGE 50 EAST, M.D.B.&M.

Section 2: SW 1/4 NW 1/4

Section 3: S 1/2 NE 1/4; S 1/2 NW 1/4; Lots 3 and 4

Section 4: Lot 1; SE 1/4 NE 1/4

TOWNSHIP 15 NORTH, RANGE 50 EAST, M.D.B.&M.

Section 28: W 1/2 SE 1/4

Section 33: S 1/2 NE 1/4; NW 1/4 NE 1/4; E 1/2 SE 1/4

EXCEPTING all coal and other minerals as reserved in Patent executed by UNITED STATES OF AMERICA.

PARCEL II:

All those certain lots, pieces, or parcels of land situate in the County of Esmeralda, State of Nevada, more particularly described as follows:

TOWNSHIP 15 NORTH, RANGE 50 EAST, M.D.B.&M.

Section 4: Lots 1 and 2; S 1/2 NE 1/4; SE 1/4

EXCEPTING all oil and gas as reserved in Patent executed by UNITED STATES OF AMERICA.

EXHIBIT B

DHR
(Initials)

A. This Deed of Trust encumbers, in addition to the real property described on Exhibit A, all leases, permits, licenses and privileges now held or hereafter acquired by Trustor from the United States, the State of Nevada or any department, bureau or agency of the United States or the State of Nevada, or any private party, relating to or appurtenant to the real property described in Exhibit A, to rent, lease, and/or use any public or private lands for the purpose of grazing, pasturing, or feeding livestock thereon, and this Deed of Trust also encumbers any and all improvements on any such public lands heretofore or hereafter acquired or constructed by Trustor.

B. Trustor shall perform and observe all of the covenants and conditions set forth in said leases, permits licenses and privileges; Trustor shall comply with all rules and regulations promulgated and applicable to said leases, permits licenses and privileges including, without limitation, paying when due any rent or charges payable thereunder. In the event that Trustor fails to make any such payment, Beneficiary may make such payment and any amounts so advanced by Beneficiary shall be secured hereby, shall be immediately due and payable, and shall bear interest at the same rate of interest as set forth in the promissory note secured hereby.

C. Trustor shall make application and do any and all things necessary to obtain extensions or renewals of said leases, permits, licenses and privileges during the term of this Deed of Trust. In the event that Trustor fails to perform the covenants and agreements set forth in paragraphs A, B, and C of this Deed of trust, such failure shall constitute a default under this Deed of Trust.

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EXHIBIT C

DHR *SLL*
(Initials)

7. At least three months having elapsed after the recordation of notice of default and election to sell, Trustee, having first given notice of sale as then required by law, and without demand on Trustor, shall sell the property at the time and place of sale fixed by it in the notice of sale, either as a whole or in separate parcels and in such orders as the Trustee may determine, at public auction to the highest bidder for cash, in lawful money of the United States of America, payable at the time of sale. Trustee may postpone sale of all or any portion of the property by public announcement at the time of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the previous postponement, and without further notice it may make such sale at the time to which the same shall be so postponed. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, expressed or implied. The recital in any such deed of any matters or facts, stated either specifically or in general terms, or as conclusions of law or fact, shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. After deducting all costs, fees and expenses of Trustee and of his trust, including costs of evidence of title in connection with the sale and reasonable attorney's fees, the Trustee shall apply the proceeds of the sale to the payment of all sums then secured hereby, in such order and manner as may be required by the Beneficiary; the remainder, if any, to be paid to the person or persons legally entitled thereto. If Beneficiary shall elect to bring suit to foreclose this deed of trust in the manner and subject to the provisions, rights and remedies relating to the foreclosure of a mortgage, Beneficiary shall be entitled to a reasonable sum to be fixed by the court as attorney's fees expended in the prosecution of said action.

RECORDED AT REQUEST OF
Washoe Title Guaranty Co.
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85 FEB 27 A10: 44

OFFICIAL RECORDS
EUREKA COUNTY, NEVADA
M. J. REBALEATI, RECORDER
FILE NO. 98547
FEE \$ 10.00

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