

See BK 210, Pg 227 for Agreement Amendment, etc.  
See BK 214, Pg 600 for First Amendment, etc.  
See BK 224, Pg 161 for Second Amendment, etc.  
See BK 243, Pg 839 Sub of Trustee  
See BK 243, Pg 1040, for Default + Election to Sell.

4/2/98 See BK 317 page 340 - Recession

214288-111-112  
RECORDING REQUESTED BY,  
AND, WHEN RECORDED, MAIL TO:

SANWA BANK CALIFORNIA  
601 "J" Street  
Sacramento, California 95814

Attn: Thomas B. Bolin  
Vice President and Manager

129613

DEED OF TRUST (NON-CONSTRUCTION) & ASSIGNMENT OF RENTS

THIS DEED OF TRUST is made this 23rd day of August, 1989, by and among DANIEL H. RUSSELL and ROBERTA A. RUSSELL, Husband and Wife ("Trustor"), whose address is P.O. Box 339, Folsom, California 95630, FIRST AMERICAN TITLE COMPANY OF NEVADA, a Nevada corporation ("Trustee"), and SANWA BANK CALIFORNIA, a California corporation whose address is 601 "J" Street, Sacramento, California, 95814 ("Beneficiary").

W I T N E S S E T H:

THAT TRUSTOR IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to TRUSTEE, its successors and assigns, IN TRUST, WITH POWER OF SALE:

All that property now or hereafter acquired in the County of Eureka, State of Nevada, commonly referred to as J.D. Ranch and more particularly described in the attached Exhibit "A" (herein referred to as the "Property");

TOGETHER WITH, and including, without limitation, all of the buildings and improvements now or hereafter erected on the Property; all of the easements, rights, rights-of-way, privileges, franchises and appurtenances now or hereafter belonging to, or in any way appertaining, or in any way being a means of access, to said Property; all rents, issues, profits, royalties, revenue, income and other benefits of or arising from the use or enjoyment of all or any portion of the Property or the buildings and improvements now or hereafter erected thereon (subject however to the right, reserved to Trustor, to collect, receive and retain such rents, issues, profits, royalties, revenue, income and other benefits prior to any default hereunder or under the notes referenced below or other evidence of debt secured hereby); all gas, oil, and mineral rights, profits and stock now or hereafter derived from, appurtenant to, or pertaining to the Property (and any and all shares of stock evidencing the same); all crops now or hereafter grown on the Property; and all equipment, machinery, appliances and fixtures (including replacements and additions thereto) now or hereafter erected thereon; and

TOGETHER WITH, any and all property which is at the time of the execution of this Deed of Trust attached in any manner

whatsoever to the Property or which is used in the operating of the Property for the purposes for which the Property is improved, including but not limited to all tanks, windmills, pumping equipment, pumps, well equipment, well casing, water distribution plants, and irrigation equipment; and

TOGETHER WITH, all water and water rights, including riparian, appropriative, prescriptive, overlying rights, rights evidenced by mutual water company stock, and all dams, ditches, canals, pipe lines, reservoirs and all other means for the diversion or use of waters appurtenant to the Property or any part thereof, or used or enjoyed in connection therewith, including use for irrigation, domestic, municipal, recreational, fish and wildlife and stock-watering purposes, irrigation and drainage rights of every kind and character, however manifested or evidenced, and all buildings and improvements thereon or that may be placed thereon; and

TOGETHER WITH, all grazing rights, permits, leases or allotments issued in connection with the Property by the Bureau of Land Management, U.S. Forest Service, lessors, or any other person or agency.

All of the foregoing shall be deemed to be and shall remain a part of and fixtures relating to the Property encumbered by this Deed of Trust, and all of the foregoing, together with the Property (or the leasehold estate, if this Deed of Trust encumbers a leasehold interest in the land comprising such property), are hereafter referred to as the "Premises";

FOR THE PURPOSE OF SECURING, in such order of priority as Beneficiary, in its absolute discretion, may determine:

1. Due and prompt payment of an indebtedness in the aggregate principal sum of \$ 18,992,342.04 as evidenced by:

a. a certain promissory note dated January 21, 1987 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$6,950,000.

b. a certain promissory note dated January 21, 1987 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$6,059,800.

c. a certain promissory note dated September 9, 1987 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$2,238,600.

d. a certain promissory note dated August 9, 1988 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$2,836,600.

e. a certain promissory note dated January 23, 1989 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$4,879,400.

f. a certain promissory note dated January 23, 1989 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$1,500,000.

g. a certain Term Loan Agreement, with note included, dated April 23, 1989 executed by Trustor and payable to Beneficiary in the original principal sum of \$223,000.

h. a certain promissory note dated August 23, 1989 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$3,360,800.

(herein collectively referred to as the "note"), and any and all amendments, modifications, extensions or renewals of the note (whether evidenced by the note or otherwise); together with the payment of interest on such indebtedness and the payment of all other sums (with interest as therein provided) according to the terms of the note (and any and all amendments, modifications, extensions, or renewals thereof);

2. Due and prompt payment of all other sums, with interest as herein provided, becoming due and payable, under the provisions of this Deed of Trust, to Trustee or Beneficiary;

3. Due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained in this Deed of Trust, the note and any document or instrument modifying or amending this Deed of Trust or the note, or otherwise evidencing, securing or pertaining to the indebtedness evidenced by the note;

4. Due and prompt payment of such additional sums (with interest thereon) as may hereafter be loaned by Beneficiary or its successor to Trustor or any of them, or any successor in interest of Trustor, with interest thereon, and any other indebtedness or obligation of Trustor, or any of them, and any present or future demands of any kind or nature which Beneficiary or its successor may have against Trustor, or any of them, whether created directly, or acquired by assignment, whether absolute or contingent, whether due or not, whether otherwise secured or not, or whether existing at the time of execution of this instrument or arising thereafter;

This Deed of Trust, and all addenda, extensions, and modifications thereto are governed by Nevada Revised Statutes 106.300 to 106.400. This Deed of Trust secures future advances from Beneficiary to Trustor. The maximum amount of further advances of principal to be secured by this Deed of Trust, over the original principal sum stated above, is \$10,000,000. Any future advances from Beneficiary to Trustor are at the option of Beneficiary and Beneficiary is in no way obligated by this provision to make any such advances.



TO PROTECT AND MAINTAIN THE SECURITY OF THIS DEED OF TRUST,  
TRUSTOR AGREES:

1. Payment of Obligations When Due. Trustor shall promptly pay, when due and in lawful money of the United States of America which shall be legal tender for public and private debts at the time of payment, each and every indebtedness and obligation for which this Deed of Trust has been given as security as provided hereinabove; and Trustor shall promptly perform, observe and discharge each and every condition, obligation, covenant and agreement for which this Deed of Trust has been given as security as provided herein.

2. Maintenance of Premises.

a. Trustor shall maintain and keep the Premises in good condition and repair and shall not commit or permit waste of the whole or part or any item consisting of a part of the Premises. Trustor shall not alter, remove or demolish any buildings, improvements, machinery, equipment, appliances or fixtures now or hereafter on the Property without the prior written consent of Beneficiary.

b. Trustor shall promptly repair, replace or restore (in good, workmanlike manner and in compliance with all laws, ordinances, governmental rules and regulations, easements, agreements, covenants, conditions and restrictions affecting the Property or the Premises) all buildings, improvements, machinery, equipment, appliances and fixtures now or hereafter on the Property, in the event of damage to or destruction of such buildings, improvements, machinery, equipment, appliances and fixtures.

c. Trustor shall perform, in the event all or any portion of the Premises constitutes a leasehold estate belonging to Trustor, each and every obligation of Trustor under the terms of the lease agreement relating to the demise of the Premises. Trustor shall not commit, suffer or permit any act upon the Premises in violation of law, ordinance, governmental rules and regulations, easements, agreements, covenants, conditions and restrictions affecting the Premises or use of the Premises.

d. Trustor shall cultivate, irrigate, fertilize, fumigate, spray, prune and do any other acts which from the character or use of the Property may be reasonably necessary, in accordance with the best standards practiced by others engaged in similar operations, and, if the Property is agricultural Property, Trustor shall farm and harvest, and prepare for farming and harvesting, the Property in an approved and husbandlike manner.

e. Trustor shall pay when due all utility charges which are incurred for the benefit of the Premises.

f. In the performance of all acts required of Trustor under the above paragraphs describing maintenance of the Premises, Trustor shall promptly pay when due all expenses incurred

therefor and shall promptly pay, discharge or otherwise release all claims for labor performed and materials furnished therefor.

3. Condition of Property; Environmental Indemnities.  
For the purposes of this Section, "Hazardous Materials" shall include, without limitation, substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. 1801, et seq.; the Resource Conservation and Recovery Act, Section 6901, et seq.; those substances defined as Hazardous Materials under applicable Nevada law; and in the regulations adopted and publications promulgated pursuant to said laws.

a. Except as disclosed in writing to Beneficiary on or before the date hereof and approved by Beneficiary in writing, no portion of the Property is being used or has ever been used at any previous time, for the disposal, storage, treatment, processing or other handling of Hazardous Materials. The Property, Premises and Trustor are not in violation of or subject to the existing, pending or threatened investigation by any governmental authority under any law, statute, ordinance, or regulation pertaining to health, industrial hygiene, or the environment (collectively referred to as "Environmental Laws"), including without limitation the laws identified in the definition herein of "Hazardous Material". Trustor's prior and intended use of the Property will not result in the disposal or release of any Hazardous Material in, on, or under the Property. The foregoing representations and warranties shall be continuing and shall be true and correct for the period from the date hereof to the release of this Deed of Trust (whether by payment of the indebtedness secured hereby or foreclosure or action in lieu thereof), and these representations and warranties shall survive such release.

b. Trustor has complied with all recommendations by any engineers retained by Trustor and all requirements of any applicable department of environmental resources or similar governmental agency, and there are no recommendations by said engineers or requirements ordered by said agency or any other governmental body for environmental investigation or cleanup with respect to the Property or the Premises.

c. Trustor shall, to the maximum extent permitted by law, save, defend, indemnify and hold harmless (herein collectively called "to indemnify"), Beneficiary, its directors, officers, shareholders, employees, agents, affiliates and subdivisions and their respective heirs, successors, personal representatives and assigns (herein collectively called ("Indemnified Parties")) from and against any and all suits, actions, legal or administrative proceedings, claims, demands, actual damages, fines, punitive damages, losses, costs, liabilities, interest, attorneys' fees (including any such fees and expenses incurred in enforcing this indemnity), and the cost and fees of expert witnesses (herein collectively called "Damages") resulting from, arising out of or in any way connected with injury

to or the death of any person, including, without limitation, any Indemnified Party, or physical damage to property of any kind wherever located, and by whomever owned, including, without limitation, that of any Indemnified Party, resulting from, arising out of or in any way connected with the Trustor's ownership or use of the Property and the Premises, including, but not limited to, any such injury, death, damage or loss arising out of the negligence of the Indemnified Parties, whether active or passive.

d. Trustor further agrees, to the maximum extent permitted by law, to save, defend, indemnify and hold harmless each Indemnified Party from any and all costs of removal of or remedial action with respect to any Hazardous Material, any other necessary costs of response, and damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from the release of any Hazardous Substances at the Property, whether such demand or claim for costs arises under federal, state, or local law, including common law.

e. Trustor shall not release or cause to be released any Hazardous Substances on, in, or under the Property or the Premises during the terms of this Deed of Trust.

#### 4. Insurance.

a. Trustor shall provide, maintain and keep policies of insurance (with companies and in form, content, policy limits and terms satisfactory to Beneficiary, with loss payable to Beneficiary) insuring the Premises against: fire (with an extended coverage endorsement), public liability, loss of rents or business interruption, flood damage (if the Property is located in a flood hazard area and if such insurance is available) and such other hazards and coverages, including earthquake, as Beneficiary from time to time may reasonably require.

b. Trustor shall promptly pay when due all premiums for such insurance, shall deliver copies of all such insurance policies, renewals of such policies and premium receipts therefor to Beneficiary, and shall do all things necessary to obtain prompt settlement or disposition of any claim or loss covered under such policies.

c. All such policies shall name Beneficiary as an additional insured and shall include such endorsements as Beneficiary shall deem necessary to protect its interest in the Premises. All such policies shall not be cancellable nor subject to substantial change without at least thirty (30) days' prior written notice to, and approval by, Beneficiary, and Beneficiary shall receive at least thirty (30) days' prior written notice of the termination of any such policy.

d. Without waiving or curing any default in the performance of any obligation under this Deed of Trust and/or without waiving notice of any such default, Beneficiary may, in its absolute discretion: apply the proceeds of such insurance upon



any indebtedness or obligation secured under this Deed of Trust; and/or, in such order, in such manner and according to such terms and conditions as Beneficiary may determine, release all or portions of such proceeds to Trustor for the repair, replacement or restoration of the Premises.

5. Payment of Taxes and Assessments.

a. Trustor shall pay and discharge, at least ten (10) days prior to delinquency: all taxes, assessments and charges of every kind and nature (including real and personal property taxes); all general and special assessments, including common area maintenance assessments and assessments on appurtenant water stock; all levies and all permit, inspection and license fees; all water and sewer rents, connection fees and charges and all other public and private charges whether of a like or different nature) imposed upon or assessed against Trustor or the Premises, or any part thereof or upon the revenues, rents, issues, income, or profits thereof or upon the inventory of goods maintained or stored thereon or therein. Trustor shall, within ten (10) days following such payment or discharge, provide Beneficiary with receipts therefor.

b. Notwithstanding the foregoing, Trustor shall have the right to contest the validity or amount of any such tax, assessment or charge; provided that the validity or amount thereof is contested diligently and in good faith and provided further that Trustor shall protect the Premises against any lien arising out of any such tax, assessment or charge, or out of any such contest thereof, by obtaining a bond, in form, substance, amount, and issued by a surety, satisfactory to Beneficiary.

c. In the event of the passage, after the date of this Deed of Trust, of any law deducting from the value of real Property, for tax purposes, any lien or charge thereon, or changing in any way the laws now existing for the taxation of deeds of trust or indebtedness secured by deeds of trust for federal, state or local purposes, or changing the manner of collection of any such taxes as to affect this Deed of Trust or the indebtedness secured hereby, Trustor agrees to pay such tax arising from such new law; and if Trustor fails to do so or if it would be illegal for Trustor to do so, Beneficiary may, at its election and without demand or notice, declare the entire indebtedness secured by this Deed of Trust (together with accrued interest thereon) immediately due and payable.

6. Insurance and Tax Impounds. At the request of Beneficiary, which may be made only after there has been an Event of Default hereunder, Trustor shall deposit with Beneficiary in monthly installments an amount equal to one-twelfth (1/12) of the estimated aggregate annual taxes and assessments on the Property and all insurance premiums on all policies of insurance required by this Deed of Trust. Trustor further agrees, upon Beneficiary's request, to cause all bills, statements or other documents relating to the foregoing insurance and taxes to be sent or mailed directly to Beneficiary. Upon receipt of such bills, statements or other documents, and providing Trustor has deposited sufficient funds

therefor with Beneficiary pursuant to this paragraph, Beneficiary shall pay such amounts as may be due thereunder out of the funds so deposited with Beneficiary. If at any time or for any reason the funds deposited with Beneficiary for such purposes are or will be insufficient to pay such amounts as may then or subsequently be due, Beneficiary shall so notify Trustor, and Trustor shall immediately deposit an amount equal to such deficiency with Beneficiary. The foregoing notwithstanding, nothing contained in this Deed of Trust shall cause Beneficiary to be deemed a trustee of such funds, or to be obligated to pay any amounts in excess of the amount of funds deposited with Beneficiary for such purposes pursuant to this paragraph.

7. Litigation. Trustor shall appear in and defend any action or proceeding purporting to affect the security of this Deed of Trust and/or the rights and/or powers of Beneficiary and/or Trustee hereunder, and Trustor shall pay all costs and expenses (including costs of evidence of title and attorneys' fees) in any action or proceeding in which Beneficiary or Trustee may so appear and/or in any suit brought by Beneficiary to foreclose this Deed of Trust, to enforce any obligation secured by this Deed of Trust and/or to prevent the breach thereof.

8. Performance of Obligations by Beneficiary or Trustee.

a. Should Trustor fail to make any payment, perform any obligation or do any act set forth in or secured by this Deed of Trust, Beneficiary or Trustee (at the request of Beneficiary), without obligation to do so, without notice to or demand upon Trustor, and without releasing Trustor from making such future payments, performing such future obligations or doing such future acts, may make such payment, perform such obligation or do such act in such manner and to such extent as Beneficiary or Trustee may deem necessary to protect the security of this Deed of Trust. For any and all such purposes, Beneficiary and/or Trustee are authorized to enter upon the Premises, and, if the Premises consists of agricultural property, Beneficiary and/or Trustee are authorized to prepare for harvest, harvest, store, remove, and sell any crops that may be growing upon the Premises and apply the proceeds thereof to the indebtedness secured by this Deed of Trust. Beneficiary and/or Trustee may employ Trustor's employees and use Trustor's equipment at the Premises in accomplishing the foregoing. Trustor agrees that any action by Beneficiary and/or Trustee described above shall be deemed to have been authorized by Trustor and shall not be a breach of the peace, provided that Beneficiary and/or Trustor make reasonable effort to safeguard all of Trustor's property.

b. Without limiting the foregoing, Beneficiary or Trustee may pay, purchase, contest or compromise any encumbrance, charge or lien which, in the sole judgment of Beneficiary or Trustee, appears to be prior or superior to this Deed of Trust, or may otherwise affect Beneficiary's security or the rights or powers of Beneficiary under this Deed of Trust. In exercising any such



power, Beneficiary or Trustee may pay all necessary expenses incurred therefor and employ legal counsel and pay its fees.

c. Trustor agrees to and shall pay, immediately and without demand, all sums so expended by Beneficiary or Trustee, with interest, from the date of expenditure, at a rate which is three percent (3%) per annum in excess of the rate otherwise payable on such date according to the terms of the note.

9. Condemnation. Any award of damages or other form of compensation awarded in connection with any condemnation for public use of, or injury to, the Property or the Premises (or any part thereof) are hereby assigned and shall be paid directly to Beneficiary, to be used, held, paid, applied or released in the absolute discretion of Beneficiary and without regard to the adequacy of its security, in the same manner and with the same effect as provided herein for the disposition of insurance proceeds. In this regard, Trustor hereby waives the benefit of any statute, rule or law which may be contrary thereto, and Trustor hereby agrees to execute such further assignments therefor as Beneficiary may require.

10. Assignment of Rents. Trustor absolutely and unconditionally hereby assigns, transfers, conveys, and sets over to Beneficiary all of the rents, royalties, issues, profits, revenue, income, and other benefits of the Premises arising from the use or enjoyment of all or any portion thereof or from any lease or agreement pertaining thereto, including, without limitation, present or future oil, gas, and mining leases and present and future grazing leases (hereinafter collectively referred to as the "rents"); reserving to Trustor only the right, prior to any default by Trustor hereunder, to collect, receive and retain the rents as they become due and payable, but not otherwise. Trustor shall, at the request of Beneficiary, execute such further assignments to Beneficiary of any or all such leases, agreements and rents as Beneficiary may require.

Upon any such default by Trustor hereunder, Beneficiary may, at any time and without notice (either in person, by agent or representative, or by a receiver appointed by a court) and without regard to the adequacy of any security for the indebtedness and/or obligations secured by this Deed of Trust: enter upon and take possession of the Premises or any part thereof, in its own name or in the name of Trustor; sue for or otherwise collect the rents (including those past due and unpaid) and apply such rents (less costs and expenses of operation and collection, including attorneys fees and expenses) to the payment of such indebtedness secured under this Deed of Trust in such order and in proportions as Beneficiary in its absolute discretion may determine. The entering upon and taking of possession of the Premises and the collection and application of the rents shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

11. Additional Covenants. The following covenants: Nos. 1, 3, 4 (interest at three percent (3%) per annum in excess

of the rate otherwise payable on such date according to the terms of the Note), 5, 6, 8, and 9 of the Nevada Revised Statutes 107.030, when not inconsistent with other covenants and provisions herein contained, are hereby adopted and made a part of this Deed of Trust.

12. Events of Default. At Beneficiary's option, Trustor will be in default under this Deed of Trust if:

a. Nonpayment. Trustor fails to timely make any payment due and owing under the note; or

b. Breach of Indemnity Obligations. Trustor fails to promptly honor and perform its indemnity obligations to Beneficiary contained in this Deed of Trust; or

c. Breach of Covenant. Trustor fails to perform any other covenant secured by this Deed of Trust, and does not cure that failure within the period of time, if any, that Beneficiary may elect at its sole discretion to grant in writing to Trustor, to cure that failure; or

d. Default Under Assignment. A default occurs under any assignment executed by Trustor as security for any part of the indebtedness secured by this Deed of Trust; or

e. Representations and Warranties. Any representation, warranty, certification or disclosure made to Beneficiary by Trustor is breached or proves materially false or misleading on the date as of which made, whether or not it appears in this Deed of Trust; or

f. Sale or Further Encumbrance. The Property, the Premises or any part thereof, or any interest therein, is sold, conveyed, transferred, disposed of, leased or further encumbered, either voluntarily, involuntarily or otherwise, without the prior consent of Beneficiary; or

g. Priority of Liens. The lien or security interest of this Deed of Trust shall lose validity or priority; or

h. Cross-Default. Trustor loses its rights or is in default under, has breached, or fails to promptly and completely observe or perform, any provision applicable to it as set forth in this Deed of Trust, the note, or any instrument or agreement required hereunder or contemplated hereby, or in any other agreement involving the borrowing of money from Beneficiary or the advance or provision of any credit by Beneficiary to which Trustor may be a party as an obligor; or

i. Bankruptcy, Etc.

(i) Trustor has admitted in writing its inability to pay its debts generally as they come due, or has filed any petition or action for relief under any bankruptcy,

reorganization, insolvency or moratorium law, or any other law or laws for the relief of, or relating to, debtors; or

(ii) Any involuntary petition has been filed under any bankruptcy or insolvency statute against Trustor, or a custodian, receiver or trustee has been appointed to take possession of the Property, the Premises, or other assets of Trustor, unless such petition or appointment is or has been set aside or withdrawn or ceases or has ceased to be in effect within thirty (30) days from the date of said filing or appointment; or

(iii) There is filed by or against Trustor a petition seeking the liquidation or dissolution of Trustor or the commencement of any other procedure to liquidate or dissolve Trustor, or there occurs any event, condition or circumstance which causes the liquidation or dissolution of Trustor; or

(iv) Trustor conceals, removes, or permits to be concealed or removed, any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or makes or suffers a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar law; or makes any transfer of its property to or for the benefit of a creditor at a time when other creditors similarly situated have not been paid; or suffers or permits while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings which are not vacated within thirty (30) days from the date thereof; or

(v) Trustor makes a general assignment of the assets of Trustor for the benefit of Trustor's creditors; or

(vi) There is any sequestration or attachment of, or any levy or execution upon: any of the Property, the Premises, any other collateral provided by Trustor under this Deed of Trust, or any portion of the assets of Trustor, which is not released, expunged or dismissed prior to the earlier of thirty (30) days after such sequestration, attachment or execution, or the sale of such assets; or

(vii) Any of the above events in this Paragraph occurs in connection with any co-maker or accommodation maker, of the note or the Deed of Trust; or

j. Government Action. Any governmental authority takes or institutes action which, in the opinion of Beneficiary, will adversely affect Trustor's condition, operations, or ability to repay the note; or

k. Damage; Condemnation. The Property or the Premises are materially damaged by fire or other casualty; or the Property or the Premises are subject to condemnation, seizure, or appropriation in any material part; or

l. Adverse Change. There is any material adverse change in the condition of Trustor or the Premises; or



m. Change in Structure of Trustor. There is the occurrence of any management, organizational or other material change in Trustor, which Beneficiary determines, in the sole and absolute discretion of Beneficiary, will have a material adverse effect on the Property, the Premises or Trustor's ability to perform its obligations under the note, or this Deed of Trust; or

n. Other Default. There is the occurrence of a default under any other agreement of Trustor affecting the Property or the Premises in any material way.

### 13. Remedies

a. Power of Sale. Upon the occurrence of any default hereunder, Beneficiary shall have the right to cause any of the Property or Premises to be sold at any one or more public or private sales as permitted by applicable law, and Beneficiary shall further have all other rights and remedies, whether at law, in equity, or by statute, as are available to secured creditors under applicable law. Any such disposition may be conducted by an employee or agent of Beneficiary or Trustee. Any person not prohibited by applicable law, including Trustor, and Beneficiary, shall be eligible to purchase any part or all of the Property or Premises at such disposition.

b. Expenses of Sale. Expenses of retaking, holding, preparing for sale, selling or the like shall be borne by Trustor and shall include Beneficiary's and Trustee's attorneys' fees and legal expenses. Trustor, upon demand of Beneficiary, shall assemble any moveable collateral secured hereby and make it available to Beneficiary at the Property, a place which is hereby deemed to be reasonably convenient to Beneficiary and Trustor. Beneficiary shall give Trustor at least five (5) days' prior written notice of the time and place of any public sale or other disposition of such items or of the time of or after which any private sale or any other intended disposition is to be made, and if such notice is sent to Trustor, as the same is provided for the mailing of notices herein, it is hereby deemed that such notice shall be and is reasonable notice to Trustor.

c. Additional Remedies. If Trustor is in default, Beneficiary may also, at its option, and without notice to or demand upon the Trustor:

(i) Declare any or all indebtedness secured by this Deed of Trust to be immediately due and payable;

(ii) Subject to the rights of the parties in possession, enter onto the Property, in person or by agent or court-appointed receiver, and take any and all steps which may be desirable in Beneficiary's sole judgment to manage, operate, lease or sell the Property or the Premises, including, without limitation, the steps described in Paragraph 8a. Beneficiary may, without in any way curing or waiving any default of Trustor, apply against the indebtedness secured by this Deed of Trust any rents, royalties, income or profits it collects pursuant to this Deed of Trust. Trustor agrees to vacate and surrender possession of the

Premises to Trustee or Beneficiary, as the case may be, or to a receiver, if any, and in default thereof, may be evicted by any summary action or proceeding for the recovery of possession of Premises for nonpayment of rent, however designated;

(iii) Institute a proceeding or proceedings, judicial or otherwise, for the complete foreclosure of this Deed of Trust under any applicable provision of law; or

(iv) Institute a proceeding or proceedings for the partial foreclosure of this Deed of Trust under any applicable provision of law for the portion of the indebtedness or obligations then due and payable, subject to the lien of this Deed of Trust continuing unimpaired and without loss of priority so as to secure the balance of the indebtedness or obligations not then due and payable; or

(v) Cause any or all of the Premises to be sold under the power of sale granted by this Deed of Trust in any manner permitted by applicable law; and

(vi) Apply for the appointment of a receiver, custodian, trustee, liquidator or conservator of the Premises, to be vested with the fullest powers permitted under applicable law, as a matter of right and without regard to or the necessity to disprove the adequacy of the security for the indebtedness or obligations or the solvency of Trustor or any other person liable for the payment of the indebtedness or obligations, and Trustor and each other person so liable waives or shall be deemed to have waived such necessity and consents or shall be deemed to have consented to such appointment; or

(vii) Release any portion of the Property or the Premises for such consideration as Beneficiary may require without, as to the remainder of the Property or the Premises, in any way impairing or affecting the lien or priority of this Deed of Trust, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations shall have been reduced by the actual monetary consideration, if any, received by Trustee and/or Beneficiary for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Trustee and/or Beneficiary may require without being accountable for so doing to any other lienholder; or

(viii) Take any efforts or steps or make any payments necessary in Beneficiary's reasonable discretion to cure any such default or to protect Beneficiary's interest in the Property; or

(ix) Exercise any other right or remedy available under law or in equity.

d. Notices Under Power of Sale. For any sale under the power of sale granted by this Deed of Trust, Beneficiary or Trustee must record and give all notices required by law and then, upon the expiration of such time as is required by law,

Trustee may sell the Premises without demand upon Trustor and upon any terms and conditions specified by Beneficiary and permitted by applicable law. Trustee may postpone any sale by public announcement at the time and place noticed for sale, and without further notice it may make such sale at the time to which the same shall have been postponed. If the Property consists of several lots or parcels, Beneficiary at its sole discretion may designate their order of sale or may elect to sell all of them as an entirety. Any person, including Trustor, Trustee and Beneficiary, may purchase at any sale. Upon any sale, Trustee will execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property sold, but without any covenant or warranty, express or implied, and the recitals in the deed or deeds of any facts affecting the regularity or validity of the sale will be conclusive as against all persons.

e. Application of Proceeds. The proceeds of any sale under this Deed of Trust will be applied in the following manner:

FIRST: Payment of the costs and expenses of the sale, including but not limited to Trustee's fees, attorneys' fees and legal expenses, title charges and transfer taxes, and payment of all expenses, liabilities and advances of Trustee, together with interest on all advances made by Trustee at the maximum rate allowed by law.

SECOND: Payment of the indebtedness and obligations secured by this Deed of Trust in any order that Beneficiary chooses.

THIRD: The remainder, if any, to the person or persons legally entitled to it.

f. Waiver. Trustor waives all rights to direct the order in which any of the Property or Premises will be sold in the event of any sale under this Deed of Trust, or in which the proceeds of such a sale will be applied, and also any right to have any of the Property or Premises marshalled upon any sale. If there exists additional security for the performance of the obligations secured hereby, Beneficiary, at its sole option, and without limiting or affecting any of the rights or remedies hereunder, may exercise any of the rights and remedies to which it may be entitled hereunder either concurrently with whatever rights it may have in connection with such other security, or in such order as it may determine.

g. Remedies Cumulative. All remedies contained in this Deed of Trust are cumulative, and Beneficiary also has all other remedies provided by law or in any other agreement between Trustor and Beneficiary. No delay or failure by Beneficiary to exercise any right or remedy under this Deed of Trust will be construed to be a waiver of that right or remedy or of any default by Trustor. Beneficiary may exercise any one or more of its rights and remedies at its option without regard to the adequacy of its security.



h. Enforcement Costs. Trustor will pay all Beneficiary's and Trustee's expenses incurred in any efforts to enforce any terms of this Deed of Trust, whether or not any lawsuit is filed, including but not limited to legal fees and disbursements (including but not limited to those expended on appeal), foreclosure costs and title charges.

14. Miscellaneous

a. Severability. The invalidity, illegality or unenforceability of any one or more provisions of this Deed of Trust will in no way affect any other provision, provided that severance of any such invalid, illegal or unenforceable provision(s) shall not result in a material failure of consideration under this Deed of Trust to any party hereto.

b. Notice. Except as otherwise required by law, all notices given under this Deed of Trust must be in writing and will be effectively served upon personal delivery or, if mailed, upon deposit in first class or certified United States mail, postage prepaid, sent to and received by Beneficiary at its address appearing on the first page of this Deed of Trust and sent to Trustor at its address appearing below its signature, which addresses may be changed by written notice.

c. Powers of Trustee and Beneficiary. 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 Property and Premises for the full amount of any such indebtedness and liability unpaid, Beneficiary and Trustee are respectively empowered as follows:

(i) From time to time and without notice or demand and without affecting or impairing in any way the rights of Beneficiary with respect to the Property or Premises or the obligations of Trustor, Beneficiary may:

(a) release any other person liable for the payment of any of the indebtedness or obligations secured hereby;

(b) release or substitute any one or more endorsers or guarantors of said indebtedness or obligations;

(c) extend the time or otherwise alter the times for payment or terms of payment of any of said indebtedness, including but not limited to increasing or decreasing the rate of interest thereunder;

(d) accept additional real or personal property of any kind as security for the payment of said indebtedness or performance of obligations, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;

(e) alter, waive, exchange, substitute or release any Property securing said indebtedness or obligations;

(f) assign the rights of Beneficiary under this Deed of Trust to any other party; or

(g) apply and direct the order or manner of sale of any security as Beneficiary at its sole discretion may determine, including application of proceeds of sale of the Property and Premises as set forth herein.

(ii) Trustee may, upon the written request of Beneficiary:

(a) consent to the making of any map or plat of the Property or any part thereof;

(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 lien or charge hereof; or

(d) reconvey, without any warranty, all or part of the Property or Premises.

d. Waiver of Defenses.

(i) Trustor hereby waives any right to require Beneficiary to (1) proceed against or exhaust any security held from Trustor, or (2) pursue any other remedy in Beneficiary's power whatsoever. Trustor waives any defense because of any disability or any other defense or cessation of liability and until payment and performance in full of the indebtedness and obligations secured by this Deed of Trust, waives any right of subrogation or any right to proceed against any other person or entity.

(ii) Beneficiary may, at its election and at its sole discretion, exercise any right or remedy it may have against Trustor or any security held by Beneficiary other than the Property and Premises, including without limitation the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any way the rights of Beneficiary with respect to the Property or Premises or the obligations of Trustor under this Deed of Trust except to the extent the indebtedness secured by this Deed of Trust has been paid, and Trustor waives any defense arising out of the absence, impairment or loss of any right of reimbursement or subrogation or other right or remedy of Trustor against any such security, whether resulting from such election by Beneficiary or otherwise.

(iii) Extension of the time for payment or modification of the terms of payment of any sums secured by this Deed of Trust granted by Beneficiary to any successor in interest of Trustor shall not operate to release, in any manner, the

liability of the original Trustor or the lien or security interest of this Deed of Trust. Beneficiary shall not be required to commence proceedings against such successor, refuse to extend time for payment or otherwise modify the terms of payment of the sums secured by the Deed of Trust by reason of any demand made by the original Trustor.

e. Right of Entry. Beneficiary may at any reasonable time enter upon and inspect the Property and the Premises in person or by agent.

f. Reconveyance. Upon the payment in full of all sums and performance of all obligations secured by this Deed of Trust, Beneficiary agrees to request Trustee to reconvey the Premises, and upon payment of its fees and all other sums owing to it under this Deed of Trust, Trustee will reconvey the Premises without warranty to the person or persons legally entitled to it. Such person or persons must pay all costs of recordation. The recitals in the reconveyance of any facts will be conclusive as to all persons. The grantee in the reconveyance may be described as "the person or persons legally entitled thereto." Easement rights granted, conveyed, transferred and assigned hereunder to Beneficiary which are appurtenant to the Property, will automatically be released to Trustor with the release of the Premises from the Deed of Trust. Upon recording a reconveyance for the Premises, Beneficiary's security interest, if any, in any personal property installed thereon will likewise be considered to be fully released without any further action on the part of Trustor or Beneficiary.

g. Statutes of Limitations. Trustor waives to the fullest extent permitted by law all present and future statutes of limitations as a defense to any action to enforce the provisions of this Deed of Trust or to collect any indebtedness secured by this Deed of Trust.

h. Meaning of Terms. The term "Trustor" includes both the original Trustor and any subsequent owner or owners of any of the Property or Premises, and the term "Beneficiary" includes the original Beneficiary and also any future owner or holder, including pledgees and participants, of or in this Deed of Trust, or any interest therein. Whenever the context requires, the singular includes the plural and vice versa and each gender includes the other gender. The headings of the articles in this Deed of Trust are for convenience only and do not limit its provisions. In the event Trustor is composed of more than one party, the obligations, covenants, agreements and warranties contained herein as well as the obligations arising therefrom are and shall be joint and several as to each such party.

i. Failure to Act. Beneficiary's consent to any act or omission by Trustor will not be a consent to any other or subsequent act or omission or a waiver of the need for such consent in any future or other instance. By accepting payment of any sum secured hereby after its due date or in an amount less than the sum due, Beneficiary does not waive its rights either to require prompt



payment when due of all other sums so secured or to declare a default as herein provided for failure so to pay.

j. Successors and Assigns Bound. The terms of this Deed of Trust will bind and benefit the heirs, executors, administrators, legal representatives, successors and assigns of Trustor and Beneficiary and the successors in trust of Trustee.

k. Governing Law. This Deed of Trust shall be governed by the laws of the State of Nevada.

l. Substitution of Trustee. Beneficiary may remove Trustee or any successor Trustee at any time or times and appoint a successor Trustee by recording a written substitution in the county where the Property is located, or in any other manner permitted by law. Upon that appointment, all of the powers, rights and authority of Trustee will immediately become vested in its successor.

m. Statement of Default. Trustee, upon presentation to it of an affidavit signed by or on behalf of Beneficiary, setting forth any fact or facts showing a default by Trustor under any of the terms and conditions of this Deed of Trust, is authorized to accept as true and conclusive all facts and statements in such affidavit and to act hereunder in complete reliance thereon.

n. No Notice Required. Trustee shall be under no obligation to notify any party hereto of any action or proceedings of any kind in which Trustor, Beneficiary and/or Trustee shall be a party, unless brought by Trustee, or of any pending sale under any other deed of trust or mortgage.

o. Separate Property. Any individual which comprises Trustor who is a married person hereby expressly agrees that recourse may be had against his or her separate and community property for any deficiency after the sale of the Property or Premises hereunder.

p. No Merger. If Trustor's and Beneficiary's estates hereunder shall at any time become vested in one owner, this Deed of Trust and the lien created hereby shall not be destroyed or terminated by application of the doctrine of merger, and, in such event, Beneficiary shall continue to have and enjoy all of the rights and privileges of Beneficiary hereunder. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Property, pursuant to the provisions hereof, no leases or subleases then existing and created by Trustor shall be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Beneficiary or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Beneficiary or any such purchaser shall constitute a termination of any lease or sublease unless Beneficiary or such purchaser shall give written notice thereof to such tenant or subtenant.

REQUEST FOR NOTICES

Trustor requests that a copy of any notice of default and notice of sale required by law be mailed to it at its address below.

IN WITNESS WHEREOF, the undersigned has executed this Deed of Trust on the day and year first hereinabove written.

TRUSTOR

*Daniel H. Russell*  
Daniel H. Russell

*Roberta A. Russell*  
Roberta A. Russell

Address:

P. O. Box 339  
Folsom, California 95630

SEB90079

STATE OF California )  
COUNTY OF Sacramento ) ss.

On this 23rd day of August, in the year 1989,  
before me, a Notary Public, for the State of California,  
duly commissioned and sworn, personally appeared Daniel H. Russell  
and Roberta A. Russell, personally known to me (or proved to me  
on the basis of satisfactory evidence) to be the person whose name  
is subscribed to this instrument, and acknowledged that they  
executed it.

IN WITNESS WHEREOF I have hereunto set my hand and  
affixed my official seal in the \*\*\*\*\* County  
of Sacramento on the date set forth above in this  
certificate.

Rita M. Suprenant  
Notary Public,

State of California

My Commission Expires: 8-23-91

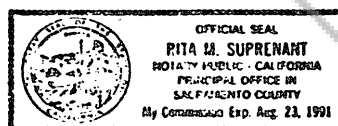




EXHIBIT "A"  
DESCRIPTION

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

PARCEL ONE:

TOWNSHIP 26 NORTH, RANGE 50 EAST, M.D.B. & M.

Section 1: SE1/4 of the NE1/4; W1/2 of the SW1/4; E1/2 of the SE1/4  
Section 11: NE1/4 of the NE1/4  
Section 12: E1/2 of the NE1/4; NE1/4 of the SE1/4

TOWNSHIP 26 NORTH, RANGE 51 EAST, M.D.B. & M.

Section 6: Lots 3, 4, 5, 6 and 7; SE1/4 of the NW1/4; E1/2 of the SW1/4  
Section 7: Lots 1, 2, 3 and 4  
Section 18: Lots 1, 2, 3 and 4

TOWNSHIP 27 NORTH, RANGE 51 EAST, M.D.B. & M.

Section 30: S1/2 of the NE1/4; Lot 4; E1/2 of the SW1/4; N1/2 of the SE1/4  
Section 31: Lot 1

EXCEPTING AND RESERVING UNTO GRANTOR all oil, gas, coal, oil shales, and other hydrocarbon substances, inert gases, minerals, and metals, including but not limited to gold, cinnabar, copper, lead, silver or any other minerals, whether now known to exist or hereafter discovered. Said reservation includes but is not limited to the right of ingress and egress at all times to said lands for the purposes of extracting, processing, marketing, mining, drilling or prospecting for oil, gas, coal, oil shales, and other hydrocarbon substances, inert gases, minerals, and metals, including but not limited to gold, cinnabar, copper, lead, silver, or any other minerals; and, the right to lay, use existing or build and maintain roads, maintain and operate pipelines for oil and gas, together with the right to use so much of the surface as may be necessary or convenient to erect, maintain and operate buildings, derricks, telephone and telegraph lines and other structures necessary or convenient for drilling, prospecting, extracting, processing, marketing and mining oil, gas, coal, oil shales and other hydrocarbon substances, inert gases, minerals, and metals, including but not limited to gold, cinnabar, copper, lead, silver, or any other minerals, together with the right to drill for and develop water as convenient for domestic and commercial use related to this reservation.

And further excepting and reserving unto Grantor and Grantors gratuitous assigns, a nonexclusive easement in gross consisting of the right to hunt game and fowl, to fish and to make reasonable recreational use of the granted real property for so long as Grantee or Grantee's wife, children or grandchildren retain any interest therein (including but not limited to an interest in a corporation or other entity), provided that Grantor shall not unreasonably interfere with Grantee's use of the premises.

And further including those BLM grazing rights and range improvements associated therewith, including specifically the Buckhorn and Pine Creek Holdings administered by the Elko Office of the Bureau of Land Management.

Further including the use of all water rights associated with that real property or grazing right territory.



PARCEL TWO:

TOWNSHIP 27 NORTH, RANGE 31 EAST, M.D.B. & M.

Section 30: Lots 9 and 10; SW1/4 of the SE1/4 of the SE1/4 of the NW1/4; E1/2 of the SE1/4 of the SE1/4 of the NW1/4

Section 31: N1/2 of the NW1/4 of the NE1/4 of the NW1/4; SW1/4 of the NW1/4 of the NE1/4 of the NW1/4

EXCEPTING THEREFROM all oil and gas as reserved in Patent executed by United State of America to Liberty Livestock recorded December 6, 1972 in Book 44, page 180 of Official Records, Eureka County, Nevada and FURTHER EXCEPTING a right of way thereon for ditches and canals constructed by the United States.

EXCEPTING AND RESERVING UNTO GRANTOR all oil, gas, coal, oil shales, and other hydrocarbon substances, inert gases, minerals, and metals, including but not limited to gold, cinnabar, copper, lead, silver or any other minerals, whether now known to exist or hereafter discovered. Said reservation includes but is not limited to the right of ingress and egress at all times to said lands for the purposes of extracting, processing, marketing, mining, drilling or prospecting for oil, gas, coal, oil shales, and other hydrocarbon substances, inert gases, minerals, and metals, including but not limited to gold, cinnabar, copper, lead, silver, or any other minerals; and, the right to lay, use existing or build and maintain roads, maintain and operate pipelines for oil and gas, together with the right to use so much of the surface as may be necessary or convenient to erect, maintain and operate buildings, derricks, telephone and telegraph lines and other structures necessary or convenient for drilling, prospecting, extracting, processing, marketing and mining oil, gas, coal, oil shales and other hydrocarbon substances, inert gases, minerals, and metals, including but not limited to gold, cinnabar, copper, lead, silver, or any other minerals, together with the right to drill for and develop water as convenient for domestic and commercial use related to this reservation.

And further excepting and reserving unto Grantor and Grantors gratuitous assigns, a nonexclusive easement in gross consisting of the right to hunt game and fowl, to fish and to make reasonable recreational use of the granted real property for so long as Grantee or Grantee's wife, children or grandchildren retain any interest therein (including but not limited to an interest in a corporation or other entity), provided that Grantor shall not unreasonably interfere with Grantee's use of the premises.

And further including those BLM grazing rights and range improvements associated therewith, including specifically the Buckhorn and Pine Creek allotments administered by the Elko Office of the Bureau of Land Management.

Further including the use of all water rights associated with that real property or grazing right territory.

RECORDED AT THE REQUEST OF

BOOK 202 PAGE 563

First American Title Co.  
SEP 19 P1:37

BOOK 202 PAGE 584

OFFICIAL RECORDS  
EUREKA COUNTY, NEVADA  
H.M. REBALEATI, RECORDER  
FILE NO. 2602

1230613