

173562

APN 007-050-06

When Recorded Return To:

Richard and Denise Gardner  
PO Box 754  
Eureka, NV 89316

DEED OF TRUST

THIS DEED OF TRUST, made and entered into this 15<sup>th</sup> day of December, 1999, by and between ART GALE and FRANCES GALE, husband and wife, as community property with right of survivorship and not as tenants in common, whose address is HC 62, Box 176, Eureka, Nevada, 89316, hereinafter called Trustor, and STEWART TITLE OF NORTHEASTERN NEVADA, INC., a Nevada corporation, hereinafter called Trustee, and RICHARD GARDNER and DENISE GARDNER, husband and wife, as joint tenants with rights of survivorship and not as tenants in common, hereinafter called Beneficiary.

WITNESSETH:

That Trustor conveys, transfers and assigns to Trustee in Trust with power of sale the following described real property located in the County of Eureka, State of Nevada, and more particularly described as follows:

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

TOWNSHIP 23 NORTH, RANGE 52 EAST, MDB&M

- Section 11: NE $\frac{1}{4}$ NE $\frac{1}{4}$ ; SW $\frac{1}{4}$ NE $\frac{1}{4}$  (total 80 Ag land acres);
- Section 12: S $\frac{1}{2}$ SW $\frac{1}{2}$ ;
- Section 13: E $\frac{1}{2}$ NW $\frac{1}{4}$ ; SW $\frac{1}{4}$ NW $\frac{1}{4}$  (total Sec. 12 & 13: 199 Ag land Ac. + 1 Ac. = 200 Ac);
- Section 24: E $\frac{1}{2}$ ; E $\frac{1}{2}$ W $\frac{1}{2}$ ;
- Section 25: NE $\frac{1}{4}$ ; E $\frac{1}{2}$ NW $\frac{1}{4}$  (total Sec. 24 & 25: 720 Ag land acres)
- Section 36: SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; SE $\frac{1}{4}$ NW $\frac{1}{4}$  (total 40 Ag land acres) - an undivided one-half interest with Erza C. Lundahl, Inc.;
- Section 36: N $\frac{1}{2}$ NE $\frac{1}{4}$ ; W $\frac{1}{2}$ NW $\frac{1}{4}$ ; NE $\frac{1}{4}$ NW $\frac{1}{4}$

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TOWNSHIP 23 NORTH, RANGE 53 EAST, MDB&M

Section 19: Lots 1, 2, 3 and 4;

Section 30: Lots 1 and 2 (total 223.04 Ag land acres)

Together with all buildings and improvements situate therein.

Together with all water, water rights, rights to the use of water, dams, ditches, canals, pipe lines, reservoirs, and all other means for the diversion or use of waters appurtenant to said property or any part thereof, or used or enjoyed in connection therewith, and together with all stock watering rights used or enjoyed in connection with the use of any of said lands including but not limited to the following water permits, certificates and Proofs of Appropriation Nos. 11588, 12306, 13182, 13183, 57835, 57836, 57837, 57838, 57839, 57840, 04147, 04148, 04471, 04472, 04473, 04474, 04475, 04476, 04477, 04478, 04479, and 04480.

SUBJECT TO: That certain Deed of Trust created by first party in favor of STEWART TITLE OF NORTHEASTERN NEVADA, INC., a Nevada corporation, for \$200,000.00, the beneficial owners of record being JAMES W. BUFFHAM and PATRICIA M. BUFFHAM, husband and wife, which Deed of Trust is recorded on August 8, 1994 in Book 274 commencing at Page 053, as File No. 154593, Official Records, Eureka County, Nevada.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

Trustor irrevocably grants and conveys to Trustee in Trust with power of sale, the above-described real property together with leases, rents, issues, profits or income thereof, all of which are herein called property income; subject, however, to the right, power and authority herein given to Beneficiary to collect and apply such property income; and subject to the existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, rights of way and easements of record.

For the purpose of securing (a) performance of each agreement of Trustor herein contained; (b) payment of an indebtedness evidenced by a Promissory Note dated the 15<sup>th</sup> day of December, 1999, and any extension or renewal thereof in the principal sum of NINETY THOUSAND DOLLARS AND NO/100 (\$90,000.00) executed by Trustor in favor of Beneficiary or order.

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The following provisions of N.R.S. 107.030 are adopted by reference as though more fully set out herein: Covenant 1, Covenant 2--\$90,000.00, Covenant 3, Covenant 4--(note rate); Covenant 5, Covenant 6, Covenant 7--(reasonable), and Covenant 9.

The Trustor shall bear the cost of the recording of this document.

To protect the security of this Deed of Trust, Trustor agrees:

1. To keep the property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the property or requiring any alterations or improvements to be made thereon; not to commit, suffer, or permit any act upon the property in violation of law; and to do all other acts which from the care or use of the property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To appear in and defend any action or proceeding purporting to affect the security hereof or the right or powers of Beneficiary or Trustee; and to pay all costs and expenses of Beneficiary and Trustee including costs of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary or Trustee to foreclose this Deed of Trust.

3. To pay before delinquent, all taxes and assessments affecting the property; when due, all encumbrances, charges, and liens, with interest, on the property or any part thereof, which appear to be prior or superior thereto; all costs, fees and expenses to this Trust, including without limiting the generality of the foregoing, the fees of Trustee for issuance of any deed of partial release and partial reconveyance or deed of release and full reconveyance, and all lawful charges, costs, and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligation secured hereby.

4. If Trustor fails to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation to do so and without notice to or demand on Trustor and without releasing Trustor from any obligations thereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security thereof, Beneficiary or Trustee being authorized to enter on the property for such purpose; appear in and defend any action or proceeding purporting to affect the

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security thereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior thereto; and in exercising any such powers, pay necessary expenses, employ counsel, and pay reasonable counsel fees.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as provided for in the Note secured hereby or at the highest legal rate, whichever is greater. Any amounts paid by Beneficiary or Trustee shall become a part of the debt secured by this Deed of Trust and a lien on the premises, or immediately due and payable at option of Beneficiary or Trustee.

IT IS MUTUALLY AGREED THAT:

6. The amount collected by Trustor under any insurance policy may be applied by Beneficiary on any indebtedness secured hereby and in such order as Beneficiary may determine or at the option of the Beneficiary the entire amount so collected or any part thereof, may be released to Trustor. Such application for release shall not cure or waive any default or notice of Trustee sale hereunder or invalidate any act pursuant to such notice or any costs related to the commencement of the same. To the extent that there is a partial destruction of the premise or improvements on the real property for which this Deed of Trust acts as security, Beneficiary shall have the sole and exclusive election as to the manner in which the insurance proceeds paid to Trustor shall be applied either to the reconstruction of the premise, or to the reduction or full payment of the unpaid principal obligation then due and owing to Beneficiary at the time of said insurance payment. Any partial or total destruction of the improvements situate on the real property for which this Deed of Trust acts as security, shall not operate to delay payments made thereon and required to be made as set out in the Promissory Note for which this Deed of Trust acts as security.

7. Any award of damages in connection with any condemnation or taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto Trustor, however, the right to sue therefor and the ownership thereof subject to this Deed of Trust), and on receipt of such moneys Beneficiary may hold them as such further security, or apply or release them in the same manner and with the same effect as above provided for disposition of proceeds of insurance.

8. Time is of the essence of this Deed of Trust. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt

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

9. At any time or from time to time, and without notice, on written request of Beneficiary and presentation of this Deed of Trust and Note for endorsement, without liability for payment of the indebtedness secured hereby, without affecting the security hereof for the full amount secured hereby and all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by Trustee's action be credited on the indebtedness, Trustee may (a) release and reconvey all or any part of the property; (b) consent to the making and/or recording of any map or plat of the property or any part thereof; (c) join in granting any easement thereon; and (d) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance, or charge hereof.

10. On written request of Beneficiary stating that all sums secured hereby have been paid, on surrender of this Deed of Trust and Note to Trustee for cancellation and retention, and on payment of its fees, Trustee shall release and reconvey, without covenant or warranty, express or implied, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

11. As an additional security, Trustor hereby gives to and confers on Beneficiary the right, power and authority, during the continuance of this Trust to collect the property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable. On 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 on and take possession of the property or any part thereof, in his own name sue for or otherwise collect such property income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, on any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering on and taking possession of the property, the collection of such property income, and the application thereof shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

12. On default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Beneficiary may declare all sums secured hereby

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immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof, and of election to cause to be sold the property under this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.

To the extent permitted by law, an action may be maintained by the Beneficiary to recover a deficiency judgment for any balance due hereunder.

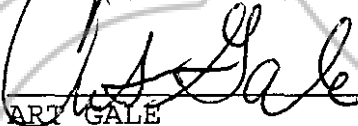
13. Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor trustee herein shall, without conveyance from the predecessor Trustee, succeed to all the predecessor's title, estate, rights, powers, and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor.

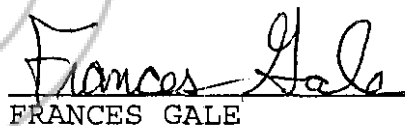
14. This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term "Beneficiary" shall mean the owner and holder of the Note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

15. Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is a party unless brought by Trustee.

16. No prepayment penalty is made a part of the Promissory Note for which this Deed of Trust exists or made a part of this Deed of Trust, and Trustor is granted full prepayment rights without penalty.

17. For all purposes of any notices or default required by law or otherwise to be given to Trustor, and unless Beneficiary is otherwise instructed hereafter in writing by Trustor, Trustor's address shall be: ART GALE and FRANCES GALE, HC62, Box 176, Eureka, Nevada, 89316.

  
ART GALE

  
FRANCES GALE

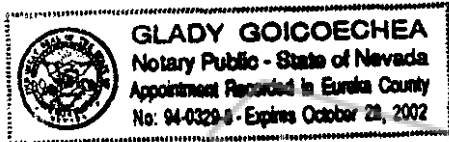
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STATE OF NEVADA )  
 ) SS.  
COUNTY OF EUREKA )

On Dec. 10, 1999, personally appeared before me, a notary public, ART GALE and FRANCES GALE, husband and wife, personally known (or proved) to me to be the persons whose names are subscribed to the above instrument who acknowledged that they executed the above instrument.

*Glady Goicoechea*  
NOTARY PUBLIC



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OFFICIAL RECORDS  
RECORDED AT THE REQUEST OF  
*Art Gale*  
99 DEC 10 AM 10:27

EUREKA COUNTY NEVADA  
M.H. REBALEATI, RECORDER  
FILE NO. FEES 13.00

**173562**

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