

USDA

Form RD 1927-1NV

(Rev. 10-96)

**REAL ESTATE DEED OF TRUST FOR NEVADA
WITH ASSIGNMENT OF RENTS**

176412

THIS DEED OF TRUST is made entered into by and between the undersigned _____

Andrew B. Marshall & Deseri S. Marshall, husband and wife as joint tenants

residing in Eureka County, Nevada whose post office address

is P O Box 254, Eureka, Nevada 89316,

as trustors, herein called "Borrower," at Stewart Title of Northeastern Nevada,

whose mailing address is P O Box 9, Elko, Nevada 89801,

as trustee, herein called "Trustee," and United States of America, acting through the United States Department of Agriculture, as beneficiary, herein called the "Government," and:

WHEREAS Borrower is indebted to the Government as evidenced by one or more promissory notes or assumption agreements or any shared appreciation or recapture agreement, herein called "note", which as been executed by Borrower, contains provisions setting forth the interest rate, is payable to the order of the Government, authorizes acceleration of the entire indebtedness at the option of the Government upon any default by Borrower, and being further described as follows:

<u>Date of Instrument</u>	<u>Principal Amount</u>
April 102000	\$ 45,000.00
April 102000	\$ 20,170.00
April 102000	\$ 16,601.92
April 102000	\$ 38,912.44
March 171999	\$130,000.00
April 52001	\$ 61,980.00
April 372001	\$ 75,610.00

(The interest rate for limited resource farm ownership or limited resource operating loans secured by this instrument may be increased as provided in Government regulations or the note.)

And the note evidences a loan borrower, and the Government, at any time may assign the note pursuant to the Consolidated Farm and Rural Development Act, or Title V of the Housing Act of 1949 or any other statutes administered by the Government;

And it is the purpose and intent of this instrument that, among other things, at all times when the note is held by the Government or in the event the Government should assign this instrument, this instrument shall secure payment of the note;

And this instrument also secures the recapture of any interest credit or subsidy which may be granted to the Borrower by the Government pursuant to 42 U.S.C. § 141 or any amounts due under any Shared Appreciation Agreement/Recapture Agreement entered into pursuant to 7 U.S.C. § 2001.

NOW, THEREFORE, in consideration of the loans Borrower does hereby grant, bargain, sell, convey, and assign unto trustee the following described property situated the Eureka County or Counties of Nevada:

See Attached Legal description Exhibit "A"

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THIS DOCUMENT IS BEING RE-RECORDED TO CORRECT A DATE

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together with all rights (including the rights to mining products, gravel, oil, gas, coal or other minerals), interests, easements, hereditaments and appurtenances thereunto belonging the rents, issues, and profits thereof and revenues and income therefrom (subject to the right of the Government to collect and apply same as provided in Covenant (31) of this instrument); all improvements, all water, water rights, water stock, and sprinkling and irrigation system, pertaining thereto, and all payments at any time owing to Borrower by virtue of any sale, lease, transfer, conveyance, or condemnation of any part thereof or interest therein-all of which are herein called "the property."

IN TRUST, NEVERTHELESS, (a) at all times when the note is held by the Government, or in the event the Government should assign this instrument to secure payment of the note and any renewals and extensions thereof and any agreements contained therein, and (b) to secure the prompt payment of all advances and expenditures made by the Government, with interest, as hereinafter described and the performance of every covenant and agreement of Borrower contained herein or in any supplementary agreement.

BORROWER for Borrower's self, Borrower's heirs, executors, administrators, successors and assigns WARRANTS the property unto Trustee for the benefit of the Government against all lawful claims and demands whatsoever except any liens, encumbrances, easements, reservations, or conveyances specified hereinabove, and COVENANTS AND AGREES as follows:

- (1) To pay promptly when due indebtedness to the Government hereby secured.
- (2) To pay to the Government's fees and other charges as may now or hereafter be required by Government regulations.
- (3) If required by the Government, to make additional monthly payments of 1/12 of the estimated annual taxes, assessments, insurance premiums and other charges on the mortgaged premises.
- (4) The Government may at any time pay any other amounts including advances for payment of prior or junior liens, required herein to be paid by Borrower and not paid by Borrower when due, as well as any costs and expenses for the preservation, protection, or enforcement of this lien, as advances to Borrower's account. All such advances shall bear interest at the rate borne by the note which has the highest interest rate.
- (5) All advances by the Government, including advances for payment of prior or junior liens, in addition to any advances required by the terms of the note, as described in this instrument, with interest shall be immediately due and payable by Borrower to the Government without demand at the price designated in the latest note and shall be secured hereby. No such advance by the Government shall relieve Borrower from breach of Borrower's covenant to pay. Any payment made by Borrower may be applied on the note or any indebtedness to the Government secured hereby, in order the Government determines.
- (6) To use the loan evidenced by this note solely for purposes authorized by the Government.
- (7) To pay when due all taxes, assessments, judgments, encumbrances, and assessments lawfully attaching to or assessed against the property, including all charges and assessments in connection with water, water rights, and water stock pertaining to or reasonably necessary to the use of the real property described above, and promptly deliver to the Government without demand receipt evidencing such payments.
- (8) To keep the property insured required by and under insurance policies approved by the Government and, at its requests to deliver such policies to the Government the amount collected under any fire or other insurance policy may be applied by the Government upon the loan or any other indebtedness secured by this instrument in such order as the Government may determine, or at the Government's option may be released to Borrower.
- (9) To maintain improvement in good repair and make repairs required by the Government; operate the property in a good and husbandmanlike manner; comply with farm conservation practices and farm and home management plans as the Government from time to time may prescribe; and not abandon the property, or cause or permit waste, lessening or impairment of the security covered hereby, or, without the written consent of the Government, cut, remove, or lease any timber, gravel, oil, gas, coal, or other minerals except as may be necessary for ordinary domestic purposes.
- (10) To comply with all laws, ordinances, and regulations affecting the property.
- (11) To pay or reimburse the Government for expenses reasonably necessary or incidental to the protection of the lien and priority hereof and to the enforcement of or the compliance with the provisions hereof and of the note and any supplementary agreement (whether before or after default) including but not limited to costs of evidence of title to and survey of the property, costs of recording this and other instruments, attorney's fees, trustees' fees, court costs, and expenses of advertising, selling, and conveying the property.
- (12) Except as otherwise provided by Government regulations, neither the property nor any portion thereof or interest therein shall be leased, assigned, sold, transferred, encumbered, voluntarily or otherwise, without the written consent of the Government. The Government shall have the sole and exclusive rights as beneficiary hereunder including but not limited to the power to grant consents, partial releases, subordinations, and satisfaction.
- (13) At all reasonable times the Government and its agents may inspect the property to ascertain whether the covenants and agreements contained herein or in any supplementary agreement are being performed.
- (14) The Government may (a) adjust the interest rate, payment, terms or balance due on the loan, (b) increase the mortgage by an amount equal to deferred interest on outstanding principal balance, (c) extend or defer the maturity of and renew and reschedule the payments on, the debt evidenced by this note or any indebtedness to the Government secured by this instrument, (d) release any party who is liable under the note or for the debt or liability to the Government, (e) release portions of the property and subordinate its lien, and (f) waive any other of its rights under this instrument. Any and all this can and will be done without affecting the lien or the priority of this instrument or Borrower's or any other party's liability to the Government for payment of the note or debt secured by this instrument unless the Government says otherwise in writing. HOWEVER, any forbearance by the Government-whether once or often-in exercising any right or remedy under this instrument or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any such right or remedy.

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(15) If at any time it shall appear to Government that Borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source, at reasonable rates and terms for loans for similar purposes and periods of time, Borrower will, upon Government's request, apply for and accept such loan in sufficient amount to pay the note and any indebtedness secured hereby and pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

(16) Default hereunder shall constitute default under any other real estate, or personal property or other security instrument held by the Government and executed or assumed by Borrower, and default under any such other security instrument shall constitute default hereunder.

(17) SHOULD DEFAULT occur in performance or discharge of any obligation in this instrument or secured by this instrument, or should the parties named as Borrower or be declared incompetent, or should any one of the parties named as Borrower be discharged in bankruptcy or declared an insolvent make an assignment for the benefit of creditors, the Government, at its option with or without notice, may: (a) declare the entire amount unpaid under the note and any indebtedness to the Government hereby secured immediately due and payable, (b) for the account of Borrower incur and pay reasonable expenses for repair or maintenance of and take possession of, operate or rent the property, (c) upon application by it and production of this instrument, without other evidence and without notice of hearing of said application, have a receiver appointed for the property, with the usual powers of receivers in like cases, and (d) authorize and request Trustee to foreclose this instrument and sell the property as provided by law, (e) bring an action to foreclose this instrument, obtain a deficiency judgment, or enforce any other remedy provided by law.

(18) At the request of the Government, Trustee may foreclose this instrument by advertising and sale of the property as provided by law, for cash or secured credit at the option of the Government, personal notice of which sale need not be served on Borrower; and at such sale the Government and its agents may bid and purchase as a stranger; Trustee at Trustee's option may conduct such sale without being personally present, through Trustee's agent authorized by Trustee for such purpose orally or in writing; and Trustee's execution of a conveyance of the property or any part thereof to any purchaser at foreclosure sale shall be conclusive evidence that the sale was conducted by Trustee personally or through Trustee's delegate duly authorized in accordance herewith.

(19) The proceeds of foreclosure shall be applied in the following order to the payment of: (a) costs and expenses incident to enforcing or complying with the provisions hereof, (b) any prior liens required by law or a competent court to be so paid, (c) the debt evidenced by the note and all indebtedness to the Government secured hereby, (d) inferior liens of record required by law or a competent court to be so paid, (e) at the Government's option, any other indebtedness of Borrower owing to the Government, and (f) any balance to Borrower. In case the Government is the successful bidder at foreclosure or other sale of all or any part of the property, the Government may pay its share of the purchase price crediting such amount on any debts of Borrower owing to the Government, in the order prescribed above.

(20) All powers and agencies granted in this instrument are coupled with an interest and are irrevocable by death or otherwise; and the rights and remedies provided in this instrument are cumulative to remedies provided by law.

(21) Borrower agrees that the Government will not be bound by any present or future State laws, (a) providing for homestead or exemption of the property, (b) prohibiting maintenance of an action for a deficiency judgment or limiting the amount thereof or the time within which such action must be brought, (c) prescribing any other statute of limitations, or (d) limiting the conditions which the Government may by regulation impose, including the interest rate it may charge, as a condition of approving a transfer of the property to a new Borrower, Borrower expressly waives benefit of any such State laws.

(22) If any part of the loan for which this instrument is given shall be used to finance the purchase, construction or repair of property to be used as an owner-occupied dwelling (herein called "the dwelling") and if Borrower intends to sell or rent the dwelling and has obtained the Government's consent to do so (a) neither Borrower nor anyone authorized to act for Borrower will, after receipt of a bona fide offer, refuse to negotiate for the sale or rental of the dwelling or will otherwise make unavailable or deny the dwelling to anyone because of race, color, religion, sex, national origin, handicap, familial status, or age, and (b) Borrower recognizes as illegal and hereby disclaims, and will not comply with or attempt to enforce restrictive covenants on the dwelling relating to race, color, religion, sex, national origin, handicap, familial status or age.

(23) If Borrower has a permit or approved application for the appropriation of water for use on or for the benefit of the property, hereinabove described, Borrower will perform and complete all the action and fulfill all the conditions necessary to perfect such water right; and in the event of Borrower's failure to do so, the Government shall have the right to complete such action and to advance such sums as may be necessary for such purpose, such advances to be secured by this instrument.

(24) If the property, or any part thereof, is a lease or a purchaser's interest in a contract of sale, Borrower will pay when due all rents, contract payments and any and all other charges required by said lease or contract, will comply with all other requirements of said lease or contract, and will not surrender or relinquish, without the Government's written consent, any of Borrower's right, title and interest in or to the property or the lease or contract while this instrument remains in effect.

(25) Borrower has assigned or waived or will immediately, on request of the Government, assign or waive in favor of the Government all grazing privileges, permits, licenses, easements appurtenant to or used in connection with said land, and Borrower further covenants and agrees to produce renewals thereof prior to their expiration, to pay all fees and charges and to perform all acts and to do all things necessary to keep and preserve all said grazing rights and renewals thereof, and in the event of the failure of Borrower to do any of these things the Government may do so on behalf of Borrower, including advancing such sums as may be necessary for this purpose and such funds advanced shall be secured by this instrument.

(26) Borrower further agrees : the loans secured by this instrument will be in default should any loan proceeds be used for a purpose that will contribute to exave erosion of highly erodible land, or the conversion of wetlands to produce an agricultural commodity as prohibited by 7 C.F.R. art 1940, subpart G.

(27) This instrument shall be sect to the present Government regulations, and to its future regulations not inconsistent with the express provisions hereof.

(28) Notices, including any No of Default and Notice of Sale, shall be sent by certified mail, unless otherwise required by law, and addressed, unless and until somater address is designated in a notice so given, in the case of both Trustee and the Government to the address stated above and in the c of Borrower at the post office address shown above.

(29) Upon full and final payment of all indebtedness hereby secured and the performance and discharge of each and every condition, agreement and obligation, contingent otherwise, contained herein or secured hereby, the Government shall request Trustee to execute and deliver to Borrower at Borrower address a full reconveyance of the property within 60 days after written demand by Borrower, and Borrower hereby waives the benefit all laws requiring earlier execution or delivery of such reconveyance.

(30) This instrument also secu future advances to Borrower when evidenced by notes for any loans made by the Government, subject to the same terms and condns regarding assignment of said notes as provided in this instrument and all references in this instrument shall be deemed to incluach future notes. The future advances are at the option of the Government. The maximum amount to be secured as future advances will evidenced by, and stated in, a promissory note or notes reciting that they are secured by this deed of trust.

(31) As additional security, Bower assigns to and confers upon the Government the power to collect the rents, issues, profits and income of the property, reserving to fower the right to collect and retain same prior to any default under this instrument. The Government may apply said rents and other incoe on the loan or any indebtedness secured by this instrument in any order it may determine and without regard to the adequacy of scity for same.

(32) Any aware for damages orury to the property, including any award for its condemnation for public use, is assigned to the Government which may apply or rele the money in the same manner and with the same effect as provided in Covenant (8).

(33) The Government may, frame to time, as provided by statute, or by a writing, signed, acknowledged and recorded in the offices of the county recorders of thoresaid counties appoint another Trustee in place and stead of Trustee named in this instrument and thereupon, the Trustee named ins instrument shall be discharged and Trustee so appointed shall be substituted as Trustee under this instrument with the same effect f originally named Trustee in this instrument.

(34) If any provision of this insntent or application thereof to any person or circumstances is held invalid, such invalidity will not affect other provisions or application the instrument which can be given effect without the invalid provision or application, and to that end the provisions hereof are declaro be severable.

WITNESS the hands and seals of Bwer this 3rd day of April, 19 2001

Andrew B. Marshall
Andrew B. Marshall (Seal)

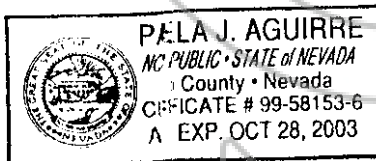
Deseri S. Marshall
Deseri S. Marshall (Seal)

STATE OF NEVADA } ss:
COUNTY OF Elko }

ACKNOWLEDGMENT

On this 3rd day of April, 19 2001, personally appeared before me a Notary Public the signer(s) of the above instrument who duly acknowledged to me that Andrew B. Marshall and Deseri S. Marshall executed the same.

(NOTARIAL SEAL)



Notary Public, residing at:

[Signature]

My commission expires: 10/28/03

The United St does not seek exclusive jurisdiction over the property herein described.

EXHIBIT A

All that certain lot, pe or parcel of land situate in the County of Eureka, State of Nevada, described as follows:

TOWNSHIP NORTH, RANGE 53 EAST, M.D.B.&M.

Section: Lots 15 and 16; S1/2 NE1/4; SE1/4

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EXCEPTINHEREFROM all oil and gas lying in and under said land as reserved in Pat by the UNITED STATES OF AMERICA, recorded March 27, 18, in Book 26, Page 395, Official Records, Eureka County, Nevada.

Together with rights to use water, ditches and other accessories for irrigation and drainage said premises including water rights now appurtenant under the following certificates of appropriation and/or applications for a permit to appropriate public waters of the State of Nevada, now on file and of record in the office the State Engineer Carson City, Nevada:

Certificate Number	Permit or Application number	C.F.S.	Acreage
7396	0001	2.67	158
6990	9371	2.673	103.6
10651	5708	2.36	153.6
	4315		
	4316		
	4317		

Mortgagor covenant and agrees that he will perform and complete all of the action and fulfill all of the conditions necessary to perfect his rights to appropriate water under such permit.

All in addition to the fixtures including but not limited to pumps, motors, panels and pivot

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OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
Stewart Title
01 APR 12 AM 11:03
EUREKA COUNTY, NEVADA
M.N. REBALEATI, RECORDER
FILE NO. 176412
FEE \$11.00

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BOOK 340 PAGE 609

EUREKA COUNTY, NEVADA
M.N. REBALEATI, RECORDER
FILE NO. 176403A
FEE \$11.00

BOOK 340 PAGE 605
OFFICIAL RECORDS
RECORDED AT THE REQUEST OF
Stewart Title
01 APR -5 PM 2:02