

WHEN RECORDED MAIL TO:

FIRST SECURITY BANK OF UTAH
National Association

P.O. Box 280

Cedar City, UT 84721

ATTN: Randy Phillips

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRUST DEED

With Assignment of Rents

THIS TRUST DEED, made this 6TH day of JANUARY, 1992, between Varlin S. and Susan M. Higbee as TRUSTOR, whose address is P.O. Box 354, Alamo, NV Land Title of Nevada, Inc., P.O. Box 26239 Las Vegas, NV 89126, as TRUSTEE; and FIRST SECURITY BANK OF UTAH, National Association, a national banking association, as BENEFICIARY,

WITNESSETH: That Trustor CONVEYS AND WARRANTS TO TRUSTEE IN TRUST, WITH POWER OF SALE, the following described property, situated in Lincoln County, State of Nevada:

See attachment A.

Together with all the estate, right, title and interest, including insurance, which Trustor now has or may hereafter acquire, either in law or in equity, in and to said premises; to have and to hold the same, together with the buildings and improvements thereon and all alterations, additions or improvements now or hereafter made thereto, including all machinery, equipment, material, appliances, and fixtures now or hereafter installed or placed in said buildings or on said real property and all other similar items and things; all of the items and things so specified and all other similar items or things, whether now or hereafter placed on the property, being hereby declared to be, and in all circumstances shall be construed to be, for and in connection with the purposes and powers of this Trust Deed, things affixed to and a part of the realty described herein, the specific enumerations herein not excluding the general, and together with all singular tenets, tenements, hereditaments, reversion and reversions, remainder and remainders, rents, issues, profits, privileges, water rights, water company shares or stock (with all certificates therefor to be delivered to Beneficiary) and appurtenances of every kind and nature thereunto belonging or in any way appertaining, or which may be hereafter acquired and used or enjoyed with said property, or any part thereof, SUBJECT HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits.

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a promissory note, dated JANUARY 6, 1992, in the principal sum of \$30,616.75 made by Varlin S. Higbee, and Susan M. Higbee (the "Maker" if other than Trustor) payable to the order of Beneficiary at the times, in the manner and with interest as therein set forth, and any extensions and/or renewals or modifications thereof (the "Note"); (2) the performance of each agreement of Trustor herein contained; (3) the payment of such additional loans or advances as hereafter may be made to Trustor or Maker, or their respective successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Trust Deed; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof, together with interest thereon as herein provided, if the Note represents a revolving line of credit, the principal balance of the indebtedness may increase and decrease in an amount never to exceed the principal amount stated above.

- 1. Upon request of the Beneficiary and from and after the date of such request, Trustor agrees to pay to Beneficiary in addition to the payments of principal and interest payable under the terms of the Note, on the first day of each month until the Note is fully paid, the following sums:
(a) An installment of the taxes and assessments levied or to be levied against the premises covered by this Trust Deed, and an installment of the premium or premiums that will become due and payable to renew the insurance of the premises covered hereby against loss by fire or such other hazard as may reasonably be required by the Beneficiary in amounts, and in a company or companies, satisfactory to the Beneficiary. Such installments shall be equal, respectively, to the estimated premium or premiums for such insurance, and taxes and assessments, next due (as estimated by the Beneficiary) less all installments already paid therefor, divided by the number of months that are to elapse before one month prior to the date when such premium or premiums and taxes and assessments will become due. Such added payments shall not be, nor be deemed to be, trust funds but may be commingled with the general funds of the Beneficiary, and no interest shall be payable in respect thereof. The said Beneficiary shall use such monthly payments to the extent they will suffice to pay such premium or premiums and taxes and assessments when due.
(b) If monthly payments are required under the Note, all monthly payments mentioned in the preceding subsection (a) of this paragraph 1, and all payments to be made under the Note shall be added together, and the aggregate amount thereof shall be paid each month on the date specified in the Note for the payment of monthly installments in a single payment to be allocated by the Beneficiary to the following items in the order set forth:
i. Taxes, assessments, fire and other hazard insurance premiums;
ii. Interest on said indebtedness secured hereby;
iii. Amortization of the principal of said indebtedness secured hereby.
Any failure to comply with the terms of this paragraph 1 shall constitute an event of default under this Trust Deed.

2. If the total of the payments made under (a) of paragraph 1 preceding shall exceed the amount of payments actually made by Beneficiary for taxes, assessments, or insurance premiums, as the case may be, such excess may be released, applied on any indebtedness secured hereby, or be credited by Beneficiary on subsequent payments to be made by Trustor. If, however, the monthly payments made under (a) of paragraph 1 preceding shall not be sufficient to pay taxes, and assessments, and insurance premiums, as the case may be, when the same shall become due and payable, then Trustor shall pay to Beneficiary any amount necessary to make up the deficiency on or before the date when payment of such taxes, assessments, or insurance premiums shall be due. If there shall be a default under any of the provisions of this Trust Deed and hereafter a sale of the premises in accordance with the provisions thereof, or if the Beneficiary acquires the property otherwise after date of Beneficiary all its option may apply, at the time of commencement of such proceedings, or at the time the property is otherwise acquired, the balance then remaining in the funds accumulated under (a) of paragraph 1 preceding, as a credit against the amount of principal then remaining unpaid under the Note.

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

3. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good workmanlike manner any building which may be damaged, destroyed or removed thereon; to comply with all laws, covenants and restrictions affecting said property including without limitation all applicable local, state and federal laws, rules, regulations and ordinances relating to land use, zoning or protection of the environment, or to the generation, use, storage, removal, transportation, handling or disposal of toxic materials, hazardous substances, hazardous waste or other similar materials or substances; not to permit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general; and, if the loan secured hereby or any part thereof is being obtained for the purpose of financing construction of improvements on said property, Trustor further agrees:

(a) To commence any construction promptly and to pursue same with reasonable diligence to completion in accordance with plans and specifications satisfactory to Beneficiary, and

(b) To allow Beneficiary to inspect said property at all times during construction.

Trustee, upon presentation to it of an affidavit signed by Beneficiary, setting forth facts showing a default by Trustor under this numbered paragraph, is authorized to accept as true and conclusive all facts and statements therein, and to act thereon hereunder.

4. To provide and maintain insurance of such type or types and amounts as Beneficiary may require, on the improvements now existing or hereafter erected or placed on said property. Such insurance shall be carried in companies approved by Beneficiary with loss payable clauses in favor of and in form acceptable to Beneficiary. In event of loss, Trustor shall give immediate notice to Beneficiary, who may make proof of loss, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Beneficiary instead of to Trustor and Beneficiary jointly, and the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Trustor shall fail to provide satisfactory hazard insurance within thirty days prior to the expiration of any existing policy, the Beneficiary may procure, on the Trustor's behalf, insurance in favor of the Beneficiary alone. If insurance cannot be secured by the Trustor to provide the required coverage, this will constitute an active default under the terms of this Trust Deed. In the event of the foreclosure of this Trust Deed or other transfer of title to the granted property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of the Trustor in and to any insurance policy then in force shall pass to the purchaser or grantee.

5. To deliver to, pay for and maintain with Beneficiary with the indebtedness secured hereby is paid in full, such evidence of title as Beneficiary may require, including abstracts of title and policies of title insurance and any extensions or renewals thereof or supplements thereto, and to deliver all certificates for water company shares or stock pertaining to said property.

6. To appear in and defend any action or proceeding purporting to affect the security hereof, the title to said property, or the rights or powers of Beneficiary or Trustee, and should Beneficiary or Trustee elect to also appear in or defend any such action or proceeding, to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum incurred by Beneficiary or Trustee.

7. To pay at least 10 days before delinquency all taxes and assessments affecting said property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with said property; to pay, when due, all encumbrances, charges, and liens with interest on said property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees, and expenses of this Trust.

8. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation thereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Beneficiary or Trustee being authorized to enter upon said property for such purposes, commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, pay, purchase, collect, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefor, including cost of evidence of title, employment of counsel and payment of reasonable counsel fees.

9. That the Beneficiary shall have the right to inspect said property at any and all times during usual business hours.

10. To pay immediately and without demand all sums expended hereunder by Beneficiary or Trustee with interest from date of expenditure until paid at the default rate set forth in the Note or any loan agreement associated with the Note. If no default rate is given, such interest shall accrue at the per annum rate set forth in the Note until paid. The repayment of such sums and interest shall be secured hereby.

IT IS MUTUALLY AGREED THAT:

11. Should said property or any part thereof be taken or damaged by reason of any public improvements or condemnation proceeding, or damaged by fire, earthquake, or flood, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, right of action and proceeds, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured hereby. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary or Trustee may require.

12. At any time and from time to time upon written request of Beneficiary, payment of its fees and presentation of this Trust Deed and the Note for enforcement (in case of full reconveyance, for cancellation and retention), without affecting the liability of any person for the payment of the indebtedness secured hereby, Trustee may (a) consent to the making of any map or plat of said property; (b) join in granting any easement or creating any restriction thereon; (c) join in any subordination of other agreement affecting this Trust Deed or the lien or charge thereof; (d) grant any extension or modification of the terms of this loan; (e) receive, without warranty, all or any part of said property; (f) take other or additional security for the payment thereof. The grantee in any reconveyance may be described as "the person or persons entitled services mentioned in this paragraph."

13. Trustor hereby assigns absolutely to Beneficiary, during the continuance of these trusts, all rents, issues, royalties, and profits of the property affected by this Trust Deed and of any personal property located thereon. Until a default occurs in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, until Beneficiary gives notice otherwise, Trustor shall be permitted to collect all such rents, issues, royalties, and profits earned prior to default as they become due and payable. If a default occurs as aforesaid or upon Beneficiary's notice, Trustor's privilege to collect any of such moneys shall cease and Beneficiary shall have the right as stated above, with or without taking possession of the property affected hereby, to collect all rents, issues, royalties, and profits. Failure or discontinuance of Beneficiary at any time or from time to time to collect any such moneys shall not constitute a waiver of the subsequent enforcement by Beneficiary of the affirmation by Beneficiary or any tenancy, lease, or option, nor an assumption of liability under, nor a subordination of the lien or charge of this Trust Deed to any such tenancy, lease or option.

14. Upon any default hereunder or any default under the indebtedness secured hereby, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the appointment of Beneficiary as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, at its own name sue for or otherwise collect said rents, issues, and profits including those past due and unpaid, and apply the same, less costs and expenses of opinion and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine.

15. The entering upon and taking possession of said property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of said property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

16. Failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any default or acceptance of payment of any sum secured hereby after its due date shall not constitute a waiver of any other subsequent default.

17. In the event of the passage, after the date of this Trust Deed, of any law deducting from the value of the property for the purposes of taxation, any lien thereon, or changing in any way the laws now in force for the taxation of trust deeds or debts secured by trust deeds, or the manner of the collection of any such taxes, so as to affect this Trust Deed, the indebtedness secured hereby shall immediately become due and payable at the option of the Beneficiary.

18. Time is of the essence hereof. Upon default in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder or in the event a receiver or a trustee is appointed for Trustor or Trustor's property, or Trustor makes an assignment for benefit of creditors, or Trustor becomes insolvent, or a petition is filed by or against Trustor pursuant to any provisions of the United States Bankruptcy Code, as amended, all sums secured hereby shall immediately become due and payable at the option of Beneficiary. In the event of such default, Beneficiary may execute or cause Trustee to execute a written notice of default and of election to cause said property to be sold to satisfy the obligations hereof, and Trustee shall file such notice for record in each county wherein said property or some part or parcel thereof is situated. Beneficiary also shall, if requested, deposit with Trustee, this Note and all documents evidencing expenditures secured hereby.

19. After the lapse of such time as may then be required by law following the recording of said notice of default, and notice of default and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property on the date and at the time and place designated in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine (but subject to any statutory right of Trustor to direct the order in which such property, if consisting of several known lots or parcels, shall be sold), at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any cause he deems expedient, postpone the sale from time to time to the extent permitted by law until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold, but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) cost of terms hereof, not then repaid, with accrued interest from the day of expenditures at the default rate set forth in the Note or any loan agreement executed with the Note, or, if no default rate is given, at the per annum rate set forth in the Note; (3) all other sums then secured hereby; and (4) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit the balance of such proceeds with the County Clerk of the county in which the sale took place.

20. Trustor agrees to surrender possession of the hereinabove described Trust property to the Purchaser at the aforesaid sale, immediately after such sale, in the event such possession has not previously been surrendered by Trustor.

21. Upon the occurrence of any default hereunder or any default under the indebtedness secured hereby, Beneficiary shall have the option to declare all sums secured hereby immediately due and payable and foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property and Beneficiary shall be entitled to recover in such proceeds all costs and expenses incident thereto including appraisals, environmental audits, evidence of title and reasonable attorney's fees in such amount as shall be fixed by the court.

22. This Trust Deed is intended to be an assignment, security agreement and pledge pursuant to the Uniform Commercial Code and other applicable law for any of the items specified above as part of the property which, under applicable law, may be subject to an assignment, security interest or pledge pursuant to the Uniform Commercial Code or such other law and Trustor hereby grants Beneficiary a security interest in said items. This Trust Deed is also a financing statement and shall be recorded in the real estate records of the county in which the property is located. Trustor agrees that Beneficiary may file this Trust Deed, or a reproduction thereof, in any other jurisdiction or other appropriate index, as a financing statement for any of the items specified above as part of the property or for any other purpose. In addition, Trustor agrees to execute and deliver to Beneficiary, upon Beneficiary's request, any other financing statements, as well as extensions, renewals, and amendments thereof, and reproductions of this Trust Deed in such form as Beneficiary may require to perfect a security interest with respect to said items. Upon Trustor's breach of any covenant or agreement of Trustor contained in this Trust Deed, including the covenants to pay when due at sums secured by this Trust Deed, Beneficiary shall have the remedies of a secured party under the Uniform Commercial Code and other applicable law and, at Beneficiary's option, may also invoke the remedies provided in this Trust Deed as to part of the property separately or together and in any order whatsoever without in any way affecting the availability of Beneficiary's remedies under the Uniform Commercial Code or of the remedies provided in this Trust Deed.

23. Beneficiary may appoint a successor trustee at any time by filing for record in the office to the County Recorder of each county in which said property of some part thereof is situated, a substitution of trustee. From the time the substitution is filed for record, the new trustee shall succeed to all the powers, duties, authority and title of the trustee named herein or of any successor trustee. Each such substitution shall be executed and acknowledged, and notice thereof shall be given and proof thereof made in the manner provided by law.

24. The rights and remedies of Beneficiary under this Trust Deed are cumulative. The exercise by Beneficiary of one right or remedy under this Trust Deed shall not constitute an election of remedies to the exclusion of other rights and remedies. Trustor hereby waives all claims that Beneficiary marshal assets of Trustor or Maker in conducting the indebtedness secured hereby. This Trust Deed shall apply to, and bind, all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. All obligations of Trustor hereunder are joint and several. The term "Beneficiary" shall mean the owner and holder, including any pledgee, of the note secured hereby. In this Trust Deed, wherever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

25. Trustee accepts this Trust when this Trust Deed, 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 Trust Deed or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party, unless brought by Trustee.

26. If all or any part of said property or an interest therein is sold or transferred by Trustor (or if a beneficial interest in Trustor is sold or transferred and Trustor is not a natural person or persona but is a corporation, partnership, trust or other legal entity) without Beneficiary's prior written consent, excluding a transfer by devise, descent or and payable.

Beneficiary agrees to consider consent to a sale or transfer if: (1) Trustor causes to be submitted to Beneficiary information required by Beneficiary to evaluate the transferee; (2) Beneficiary reasonably determines that Beneficiary's security will not be impaired and that the risk of a breach of any covenant or agreement in this Trust Deed by reason of the involvement of such transferee is acceptable; (3) interest will be payable on the sums secured by this Trust Deed at a rate acceptable to Beneficiary; (4) changes in the terms of the Note and this Trust Deed required by Beneficiary are made, including, for example, periodic adjustment in the interest rate, a different final payment date for the Note, and addition of unpaid interest to principal; and (5) the transferee signs an assumption agreement that is acceptable to Beneficiary and that obligates the transferee to keep all the promises and agreements made in the Note and in this Trust Deed, as modified if required by Beneficiary. To the extent permitted by applicable law, Beneficiary may also charge a reasonable fee as a condition to Beneficiary's consent to any sale or transfer. This covenant in no way limits the Beneficiary's absolute discretion to refuse consent nonetheless.

In the event of a permitted transfer, Trustor (or Maker, as the case may be) still continue to be obligated under the Note, and this Trust Deed unless Beneficiary releases Trustor (or Maker) in writing.

27. Trustor shall promptly furnish Beneficiary with copies of all tax returns and financial reports and statements as requested by Beneficiary, all prepared in a manner and form and at such times as are acceptable to Beneficiary.

28. Trustor hereby agrees to indemnify, defend, and hold harmless Beneficiary, its successors, assigns, officers, directors, employees and agents against any loss, liability, cost, injury, expense or damage, including without limitation court costs and attorneys' fees and expenses, in connection with or arising from the presence, escape, seepage, leakage, spillage, discharge or emission on or from the property encumbered by this Trust Deed of any hazardous or toxic substances, materials or waste that are property encumbered hereby, (b) is separate and distinct from the other obligations under this Trust Deed and the indebtedness secured hereby, and (c) is not secured by this Trust Deed.

28. This Trust Deed shall be construed according to the laws of the State of Utah.

29. Notwithstanding any provision herein or in the Note, the total liability for payments in the nature of interest shall not exceed the limits now imposed by the applicable laws of the State of Utah.

30. If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Trust Deed.

31. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to him at the address hereinbefore set forth.

SIGNATURE OF TRUSTOR:

Varlin S. Higbee
Varlin S. Higbee, individual

Susan M. Higbee
Susan M. Higbee, individual

INDIVIDUAL ACKNOWLEDGMENT

STATE OF ~~ORIG~~ NEVADA)
)
COUNTY OF CLARK)

The foregoing instrument was acknowledged before me this 6TH day of JANUARY, 19 92, by

VARLIN S. HIGBEE AND SUSAN M. HIGBEE

NOTARY PUBLIC
County of Clark, State of Nevada
NORMA J. SPAETH
My Appointment Expires Mar. 19, 1994

Norma J. Spaeth
Notary Public

My commission expires:
Residing at LAS VEGAS, NEVADA

ATTACHMENT A

Lot 1 (one) as delineated on that certain parcel Map performed by Kenneth J. Brown at the instance of Michael Leavitt, recorded March 5, 1981 in book A1 of plats at Page 174B in the office of the County Recorder of Lincoln County, Nevada. Said parcel map being a portion of the S1/2N1/2SE1/4 of Section 31, T6S., R61E., MDB&M.

Record owner of property: Varlin S. and Susan M. Higbee

BLM Permits;

Coal Valley	78 AUM's	Allotment Number 11014
Bird Springs	65 AUM's	Allotment Number 01013
Oreana Springs	381 AUM's	Allotment Number 11003
Middle Coal Valley	129 AUM's	Allotment Number 11011

097963

FILED AND RECORDED AT REQUEST OF
Dominick Belingheri
 January 13, 1992
 AT 30 MINUTES PAST 2 O'CLOCK
 A.M. IN BOOK 100 OF OFFICIAL
 RECORDS, PAGE 117 LINCOLN
 COUNTY, NEVADA.

YURIKO SETZER
COUNTY RECORDER

By *Sandra Fisher*, Deputy