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Fee: \$70.00 Page 1 of 32  
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APN 010-220-02

APN \_\_\_\_\_

Deed of Trust, Assignment of Rents And Security Agreement

**Title of Document**

**Affirmation Statement**

X I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording **does not contain** the social security number of any person or persons. (Per NRS 239B.030)

\_\_\_\_\_ I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording **does contain** the social security number of a person or persons as required by law: \_\_\_\_\_  
(State specific law)

Judy Vee Vertullo

Signature

Title

Administrative Assistant & Documentation Manager

Signature

2-27-07

Date

**Grantees address and mail tax statement:**

Double U Livestock, LLC

27820 North Cherry Creek Road

Ely, NV 89301

RECORDING REQUESTED BY AND  
WHEN RECORDED, MAIL TO:

Tri-State Livestock Credit Corporation  
2880 Sunrise Blvd., Suite 224  
Rancho Cordova, CA 95742

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

**DEED OF TRUST, ASSIGNMENT OF RENTS  
AND SECURITY AGREEMENT**

THIS DEED OF TRUST, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT is made as of February 26, 2007, by and among **Double U Livestock, LLC, an Oregon Limited Liability Company, as ("Trustor")**, whose place of business is HC 33, Box 33660, Ely, Nevada, 89301, **Tri-State Livestock Credit Corporation, a California Corporation as ("Trustee")**, whose place of business is 2880 Sunrise Blvd., Suite 224, Rancho Cordova, California 95742; and **Tri-State Livestock Credit Corporation, a California Corporation ("Beneficiary")**, whose place of business is 2880 Sunrise Blvd., Suite 224, Rancho Cordova, California 95742.

**1. Grant in Trust.** Trustor IRREVOCABLY GRANTS, CONVEYS AND ASSIGNS to said Trustee, in trust for the benefit of Beneficiary, with power of sale together with right of entry and possession, the property described below in Sections 1.1 through 1.7 inclusive (collectively, the "Property").

**1.1** The real property situated in the County(s) of **White Pine, Elko and Lincoln**, State of Nevada, which are particularly described in Exhibit "A" attached hereto and by this reference incorporated herein (the "Real Property").

**1.2 Buildings, Fixtures, and Other Improvements.** All buildings, structures, equipment, fixtures (including, but not limited to, trees, vines and shrubs) and improvements of every kind and description now or hereafter constructed or placed on the Real Property; all standing timber and timber to be cut located on the Real Property; and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the Property, all of which are hereby declared to be fixtures. Without limiting the generality of the foregoing, a description of some fixtures may also be included with the description of the Real Property set forth above or in an exhibit hereto.

**1.3 Leases and Other Rights.** All existing and future leases, subleases, licenses, permits, agreements, permits and concessions relating to the use or enjoyment of the Real Property, including all grazing rights, leases, permits and licenses; all oil, gas, and mineral



leases, permits and rights used with the Real Property; and all tenements, hereditaments, easements, rights-of-way and appurtenances to the Real Property.

**1.4 Water Assets.** All right, title, and interest at any time of Trustor (or any of its bailees, agents, or instrumentalities), whether now existing or hereafter arising or acquired, whether direct or indirect, whether owned legally, of record, equitably or beneficially, whether constituting real or personal property (or subject to any other characterizations), whether created or authorized under existing or future laws or regulations, and however arising in, including without limitation, the water, water rights and other assets and items described below in Sections 1.4(a) through 1.4(i) inclusive, which shall collectively be called "Water Assets". References to "water" and "water rights" are used herein in the broadest and most comprehensive sense of the term(s). The term "water" includes water rights and rights to water or whatever rights to money, proceeds, property or other benefits are exchanged or received for or on account of any Water Assets or any conservation or other nonuse of water, including whatever rights are achieved by depositing one's share of any Water Assets in any water bank or with any water authority, or any other water reallocation rights. Without limiting the generality of the foregoing, a description of some Water Assets may also be included with the description of the Property set forth above or in an exhibit hereto. The Water Assets include, but are not limited to, the following:

(a) All water (including any water inventory in storage), water rights and entitlements, other rights to water and other rights to receive water or water rights of every kind or nature whatsoever including: (a) the groundwater on, under, pumped from or otherwise available to the Property, whether as the result of groundwater rights, contractual rights or otherwise; (b) Trustor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency or any rights granted or created by any use, easement, covenant, agreement, or contract with any person or entity; (c) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive, decreed or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water; (d) any water, water right, water allocation, distribution right, delivery right, water storage right, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity; (e) all water and existing and future water rights, however evidenced, to the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the Property, all of which rights are or are hereby made appurtenant to the Property.

(b) All stock, interest or rights (including any water allocations, voting or decision rights) in any entity, together with any and all rights from any entity or other person to acquire, receive, exchange, sell, lease, or otherwise transfer any Water Assets, to store, deposit or otherwise create water credits in a water bank or similar or other arrangement for allocating water, to transport or deliver water, or otherwise to deal with any Water Asset.

(c) All licenses, permits, approvals, contracts, decrees, rights and interests to acquire or appropriate any Water Assets, water bank or other credits evidencing any right to Water Assets, to store, carry, transport or deliver Water Assets, to sell, lease, exchange,

or otherwise transfer any Water Asset, or to change the point for diversion of water, the location of any Water Asset, the place of use of any Water Asset, or the purpose of the use of any Water Asset.

(d) All rights, claims, causes of action, judgments, awards, and other judicial, arbiter or administrative relief in any way relating to any Water Asset

(e) All storage and treatment rights for any Water Asset, whether on or off the Property or other property of Trustor, together with all storage tanks, and other equipment used or usable in connection with such storage and any water bank deposit credits, deposit accounts or other rights arising on account of the storage or nonuse of any Water Asset.

(f) All rights to transport carry, allocate or otherwise deliver Water Assets by any means wherever located.

(g) All irrigation and watering equipment, including all pumps, pumping plants, storage tanks, pump motors, electrical generators (all of which are declared to be fixtures) and all systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the Real Property.

(h) All guaranties, warranties, marketing, management or service contracts, indemnity agreements, and water right agreements, other water related contracts and water reallocation rights, all insurance policies regarding or relating to any Water Asset.

(i) All rents, issues, profits, proceeds and other accounts, instruments, chattel paper, contract rights, general intangibles, deposit accounts, and other rights to payment arising from or on account of any use, nonuse, sale, lease, transfer or other disposition of any Water Asset.

**1.5 Personal Property.** All right, title and interest of Trustor in and to all tangible personal property (the "Personal Property") owned by Trustor and now or at any time hereafter located on or at the Property or used in connection therewith, including, but not limited to: all goods, machinery, tools, insurance proceeds, equipment (including fire sprinklers and alarm systems, office air conditioning, heating, refrigerating, electronic monitoring, entertainment, recreational, window or structural cleaning rigs, maintenance, exclusion of vermin or insects, removal of dust, refuse or garbage, and all other equipment of every kind), lobby and all other indoor and outdoor furniture (including tables, chairs, planters, desks, sofas, shelves, lockers and cabinets), wall beds, wall safes, furnishings, appliances (including ice boxes, refrigerators, fans, heaters, stoves, water heaters and incinerators), inventory, rugs, carpets and other floor coverings, draperies and drapery rods and brackets, awnings, window shades, venetian blinds, curtains, lamps, chandeliers and other lighting fixtures and office maintenance and other supplies.

**1.6 Insurance.** All of Borrower's interest in policies of, and proceeds resulting from, insurance relating to the Property or any of the above Collateral, and any and all riders, amendments, renewals, supplements or extensions hereof, and all proceeds thereof.



**1.7 Additions and Proceeds.** All additions, accretions, substitutions and replacements of any of the Property; all proceeds of the Property, including all proceeds of present and future insurance policies; and all condemnation awards or payments now or later made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any misrepresentation, damage or injury to, or defect in the property.

**2. Assignment of Rents.** TRUSTOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Beneficiary all the rents, royalties, issues, profits, revenue, income and other benefits of the Property arising from the use, non-use, enjoyment, sale, transfer or other disposition of all or any portion thereof, including those set forth in Section 1.4(i) above, or from any lease, mineral lease, or agreement pertaining to the Property (collectively the "Rents"); whether now existing or hereafter arising and whether now due, past due or to become due; SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Trustor by Section 18 hereof. This assignment of the Rents shall be perfected automatically without appointment of a receiver or Beneficiary becoming a mortgagee in possession.

**3. Obligations Secured.** Trustor makes the grant, conveyance, and assignment of the Property as described above for purposes of securing the following indebtedness and other obligations (collectively, "Indebtedness") in any order of priority that Beneficiary may choose:

(a) payment of the indebtedness and performance of the obligations of Trustor evidenced by the following promissory note(s) (collectively "Note") and/ or the following continuing guaranty(s) (collectively "Guaranty"), and any other documents executed by Trustor in conjunction with the Note or Guaranty:

(i) a Revolving Line of Credit Promissory Note dated as of January 18, 2007, in the stated principal amount of \$850,000.00,

(b) the payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to or guaranteed by Trustor, or Trustor's successors or assigns, evidenced by a promissory note, guaranty, loan agreement or otherwise; PROVIDED, HOWEVER, that such additional loans or advances will be secured by this Deed of Trust only if the promissory note, guaranty, loan agreement or other document evidencing the obligations of Trustor relative to such loans or advances recites that it is to be secured by this Deed of Trust;

(c) the payment and performance of the obligations set forth in any document evidencing an extension, renewal, modification, replacement, reamortization, conversion, or restatement of any Indebtedness secured by this Deed of Trust, including without limitation renewal and/or substitute notes, guaranties, and loan agreements.

(d) the performance of every obligation and agreement of Trustor whether contained or incorporated by reference in this Deed of Trust, or contained in any loan agreement, loan document or guaranty executed by Trustor in favor of Beneficiary, with respect to any loan or advance secured by this Deed of Trust; and



(e) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Deed of Trust, together with interest thereon as herein provided.

The Notes referred to above are payable by Trustor and/or others to the Beneficiary at the times, in the manner and with interest as therein set forth. The Note and other documents evidencing the Indebtedness may contain variable or adjustable interest rate provisions and provisions evidencing revolving lines of credit.

The continuing validity and priority of this Deed of Trust as security for future loans or advances will not be impaired by the fact that at certain times hereafter there may be no outstanding loan or other indebtedness from Trustor to Beneficiary and/or no commitment to make loans or advances.

Notwithstanding the foregoing, this Deed of Trust does not secure any indebtedness or other obligation if the promissory note, guaranty, or any other document evidencing or pertaining to the indebtedness or obligation states that it is unsecured or not secured by real property.

**4. Personal Property Security Agreement.** To the extent that any of the Property, (including without limitation any Water Assets or fixtures), is deemed to constitute, is adjudicated to be, or declared to be personal property, this Deed of Trust shall also be deemed to be a security agreement. Trustor does hereby create and grant to Beneficiary a security interest in all such personal property described herein and this Deed of Trust shall constitute a security agreement pursuant to the Nevada Uniform Commercial Code with respect to all such personal property; and further, grants to Beneficiary all of the rights and remedies of a secured party under the Nevada Uniform Commercial Code and other applicable state law, which rights are cumulative. For the purposes of treating this Deed of Trust as a security agreement, Trustor shall be deemed to be the "Debtor" and Beneficiary the "Secured Party."

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

**5. Use of Proceeds; Payment of Secured Obligations.** To use loan proceeds solely for the purposes set forth in the loan application(s) or as otherwise required by Beneficiary, and to pay when due the principal of, and the interest on, the Indebtedness evidenced by the Note and/or Guaranty, charges, fees, and all other sums as provided in any of the documents evidencing the Indebtedness secured hereby, together with any future advances secured by this Deed of Trust.

**6. Condition of Property.** To keep the Property in good condition, working order and repair; to care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to sell, transfer, assign, encumber or convey any water or water right from the Property, or to enter into an agreement for the nonuse of water, without the prior written consent of Beneficiary; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub planted thereon without the prior written consent of



Beneficiary, except in the ordinary course of business; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; to observe and perform all obligations of Trustor under any lease of the Property.

**7. Insurance.** To provide, maintain and deliver to Beneficiary, fire, extended coverage, flood, comprehensive public liability, and all other types of insurance, in terms and amounts as may be required by law or Beneficiary, with loss payable endorsements (including lender loss payable endorsements) solely in favor of Beneficiary. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Beneficiary, at its option, to reduce the Indebtedness or restore or repair the property damaged. Failure to obtain, maintain or deliver to Beneficiary the insurance required shall constitute an event of default under this Deed of Trust.

At least thirty (30) days prior to the expiration of any such policy of insurance, Trustor will deliver a policy renewing or extending such expiring insurance and written evidence demonstrating payment of the premium for such insurance. If any such policy and evidence of payment (or copies of same, if originals cannot be delivered to Beneficiary) are not so delivered to Beneficiary, without notice to or demand upon Trustor and without releasing Trustor from any obligation under this Deed of Trust, Beneficiary may (but is not obligated to), at Trustor's expense, obtain insurance in such types, on such terms and in such amounts as Beneficiary in its sole discretion shall decide, through or from any insurance agency or company acceptable to it. Any insurance obtained by Beneficiary shall be for its sole benefit and to protect the security of this Deed of Trust. The expense and cost of such insurance shall, at Beneficiary's sole option, be payable on demand or added to the Indebtedness as provided herein. Neither Trustee nor Beneficiary shall be chargeable with or responsible for the procurement or maintenance of any such insurance, the collection of any proceeds from such insurance, or the insolvency of any insurance company or underwriter.

**8. Defense of Title.** To appear in and litigate any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Beneficiary or Trustee. Beneficiary or Trustee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Beneficiary's interest therein, in which event Trustor agrees to pay all costs and expenses thereof, including attorney's fees and costs of securing evidence of title.

**9. Taxes, Liens and Assessments.** To pay, at least ten (10) days prior to delinquency, all taxes and assessments affecting the Property, including all assessments upon water company stock, or other Water Assets, and all rents, assessments and charges for water appurtenant to or used in connection with the Property; to pay when due all encumbrances, charges, and liens on the Property, or any part thereof, which at any time create, may create or appear to create a lien upon the Property. If requested by Beneficiary, Trustor shall cause to be furnished to Beneficiary a tax reporting service covering the Property of the type, duration and with a company satisfactory to Beneficiary.



**10. Fees and Costs.** In the event that Beneficiary or Trustee uses the services of attorneys, accountants, appraisers, consultants, or other professional or outside assistance, including the services of in-house counsel or any other attorney or professional who is an employee of Lender, the reasonable amount of fees, costs and expenses ("Expenses") incurred by Beneficiary or Trustee to use such persons in connection with any of the following shall be payable by Trustor on demand. Beneficiary or Trustee may, at its option, add the amount of such Expenses to any portion of the Indebtedness plus an appropriate amount of Beneficiary's stock or participation certificates required in connection with the loan (as required by federal law or regulation or Beneficiary's bylaws), and charge interest on such amount at the interest rate applicable to such portion of the Indebtedness. The Expenses include, but are not limited to, the fees, costs, and expenses arising from the following:

(a) The preparation, modification or enforcement of this Deed of Trust, and any other agreement or document incident to the Indebtedness or to the Property;

(b) Any litigation, dispute, proceeding, or action (whether or not dismissed, reduced to judgment, or otherwise resolved), and whether instituted by Beneficiary, Trustee or Trustor or any other person, relating to the Indebtedness, the Property or Trustor's affairs;

(c) The furtherance of Beneficiary's or Trustee's interest in any bankruptcy, insolvency, or reorganization case or proceeding instituted by or against Trustor, including any steps to (1) modify or terminate the automatic stay, (ii) prohibit or condition Trustor's use of cash collateral, (iii) object to any disclosure statement or plan, (iv) propose or confirm a plan, and (v) prosecute or defend adversary proceedings or contested matters, and take or defend examinations or discovery, whether or not related to any adversary proceeding or contested matter and whether or not dismissed, reduced to judgment, or otherwise resolved;

(d) The inspection, verification, protection, collection, processing, sale, liquidation, or disposition of the Property; and

(e) Any of the type of Expenses referred to in (a) through (e) above incurred by Beneficiary or Trustee in connection with any guaranty of the Indebtedness.

The Expenses described herein and elsewhere in this Deed of Trust shall be in addition to those set forth in any Security Instrument or any other written agreement between Beneficiary and Trustor.

**11. Beneficiary May Act for Trustor.** Should Trustor fail 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 upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the Property, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the Property or the rights or powers of Beneficiary or Trustee, including any bankruptcy proceeding affecting the Property; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; pay such fees, charges, rents or other payments accruing under the grazing permits





described in Section 14 below; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including attorney's, accountant's, and appraisal fees, environmental fees and costs of securing evidence of title, and all amounts so expended shall be obligations of Trustee secured by this Deed of Trust. Nothing contained herein shall prohibit Beneficiary from entering the Property, at a reasonable time and upon reasonable notice to Trustee, without incurring or assuming any obligations or liabilities whatsoever, for the sole purpose of inspecting the Property.

**12. Environmental Compliance Matters.**

**12.1 Definitions.** For the purposes of this Section 12, the following terms shall be defined as follows:

(a) "Hazardous Material" means any radioactive, hazardous, or toxic substance, material, waste or similar term, the presence of which on the Property, or the discharge or emission of which from the Property, is prohibited by Governmental Requirements (hereafter defined) or which require special handling in collection, storage, treatment, or disposal by any Governmental Requirements. The term "Hazardous Material" includes, but is not limited to, any material, substance, waste or similar term which is:

(i) Defined as a hazardous material under the laws of the State of Nevada, as amended from time to time;

(ii) Defined as a hazardous substance under Section 311 of the Federal Water Pollution Control Act (33 U.S.C. Section 1317) as amended from time to time;

(iii) Defined as a hazardous waste under Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901 et seq.), as amended from time to time;

(iv) Defined as a hazardous waste substance under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.), as amended from time to time;

(v) Defined as a radioactive, hazardous, or toxic substance, waste, material or similar term in any rules and regulations, as amended from time to time, which are adopted by any administrative agency; including, but not limited to the Environmental Protection Agency, the Occupational Safety and Health Administration, and any such similar state or local agency having jurisdiction over the Property, whether or not such rules and regulations have the force of law;

(vi) Determined to contain asbestos or polychlorinated biphenyls;

(vii) Defined as a radioactive, hazardous, or toxic waste, substance, material or similar term in any other statute, regulation, rule or law presently in effect, or enacted or adopted at any time after the date of this Deed of Trust, by local authorities, the State of Nevada, and/or the federal government; or



(viii) Subject to regulation under the Toxic Substances Control Act (TSCA) 15 U.S.C., Section 2061 et seq.

(b) "Governmental Requirements" shall mean all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the State of Nevada, and all local or governmental or regulatory authorities exercising jurisdiction over Trustor or the Property.

(c) The "Termination Date" shall be the date on which the Indebtedness secured by this Deed of Trust shall be paid and satisfied in full; except that if the Indebtedness secured by this Deed of Trust shall be paid and satisfied by foreclosure, sale under the power of sale herein contained, deed in lieu of foreclosure or sale by power of sale, or by any other means by which title to the Property, or any part thereof, becomes vested in the Beneficiary under this Deed of Trust, Beneficiary, or any transferee, assignee, subsidiary, or other successor in interest to Beneficiary, then the Termination Date shall be the later of (i) the date on which this Deed of Trust is paid and satisfied in full, or (ii) the date on which Trustor and Trustor's employees, agents, and officers have fully and finally relinquished, surrendered, and delivered up the ownership, use, occupancy, and possession of all portions of the Property.

(d) "Hazardous Material Contamination" shall mean the contamination (whether presently existing or hereafter occurring) of the Property, or the contamination of the buildings, facilities, soil, ground water, air or other elements on, or of, any other property as a result of Hazardous Material at any time (whether before or after the date of this Deed of Trust) emanating from the Property.

**12.2 No Hazardous Material.** To the best of Trustor's knowledge, Trustor warrants and represents that, as of the date hereof, there is no Hazardous Material on or in the Property, or being released or discharged therefrom (the term "Property" expressly including for the purposes of this Section 12.2, all buildings and other improvements located thereon, all Personal Property, the soil and the ground water thereof, including the streams crossing or abutting the Property and the aquifer underlying the Property), whether such Hazardous Material be located or placed on or within the Property by spill, release, discharge, disposal, storage, or otherwise.

To the best of Trustor's knowledge after due and diligent inquiry that except for Hazardous Materials used in the normal and ordinary operation of the Property and consistent with all applicable local, state and federal statutes and regulations: (i) no part of the Property has ever been used as a manufacturing, storage, or dump site for Hazardous Material, nor is any part of the Property affected by any Hazardous Material Contamination; (ii) no property adjoining the Property has ever been used as a manufacturing, storage, or dump site for Hazardous Material; and (iii) no property adjoining the Property is affected by Hazardous Material Contamination.

Trustor covenants and agrees that from the date hereof through the Termination Date, Trustor and Trustor's agents, contractors, authorized representatives and employees (collectively "Trustor's Agents") shall not engage in any of the following prohibited activities, and



Trustor shall use its best and diligent efforts to see that Trustor's invitees and tenants, and such tenants' employees, agents, and invitees shall not:

- (a) Cause or permit any releases or discharges of Hazardous Material from the Property; or
- (b) Cause or permit any manufacturing, holding, handling, retaining, transporting, spilling, leaking, or dumping of Hazardous Material in or on any portion of the Property; or,
- (c) Otherwise place, keep, or maintain, or allow to be placed, kept, or maintained, any Hazardous Material on any portion of the Property.

**12.3 Compliance With Law.** From the date hereof through the Termination Date, Trustor shall comply, and cause Trustor's Agents and the Property to comply, with all laws, ordinances, rules, and regulations of all authorities having jurisdiction over the Trustor, Trustor's Agents, the Property, or the use of the Property, and pertaining to any Hazardous Material (herein called "Hazardous Material Laws").

**12.4 Removal of Hazardous Material and Freedom From Liens.** If Hazardous Material is discovered on the Property, Trustor shall pay immediately when due the cost of removal of any Hazardous Material from the Property in compliance with all Governmental Requirements, and keep the entire Property free of any lien imposed pursuant to any laws, regulations, or orders of any governmental or regulatory authority having to do with the removal of Hazardous Material

Within thirty (30) days after demand by Beneficiary, Trustor shall obtain and deliver to Beneficiary a bond, letter of credit, or similar financial assurance for the benefit of Beneficiary evidencing, to Beneficiary's satisfaction, that the necessary funds are available to pay the cost of removing, treating, and disposing of all Hazardous Material or Hazardous Material Contamination on the Property and discharging any assessments or liens which may be established on the Property as a result thereof.

**12.5 Hazardous Material Reports.** To the best of Trustor's knowledge, no report, analysis, study, or other document asserting that Hazardous Material Contamination exists on the Property or identifying any Hazardous Material as being located upon or released or discharged from the Property has been issued. Trustor shall:

- (a) Give notice to Beneficiary immediately upon Trustor's acquiring knowledge of the presence of any Hazardous Material on the Property or of any Hazardous Material Contamination thereon, with a full description thereof;
- (b) Immediately advise Beneficiary in writing of any notice received by Trustor or Trustor's Agents alleging that the Property contains Hazardous Material or Hazardous Material Contamination or that a violation or potential violation of any Hazardous Material Laws by Trustor, Trustor's Agents, or the Property exists (whether such notices are received from the Environmental Protection Agency, the Occupational Safety and Health Agency, or any other federal, state or local governmental agency or regional office thereof);



(c) Immediately advise Beneficiary in writing of any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened with respect to the Property or any property adjoining the Property pursuant to any Hazardous Material Laws;

(d) Immediately advise Beneficiary in writing of all claims made or threatened by any third party against Trustor, Trustor's Agents, or the Property relating to damage, contribution, cost recovery, compensation, loss or injury resulting from any Hazardous Material or Hazardous Material Contamination pertaining to the Property; and

(e) Immediately advise Beneficiary in writing upon Trustor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property which does, or could, cause the Property, or any part thereof, to contain Hazardous Material or Hazardous Material Contamination or otherwise be in violation of any Hazardous Material Laws, or cause the Property to be subject to any restrictions on the ownership, occupancy, transferability or use thereof under any Hazardous Material Laws.

**12.6 Other Property of Trustor.** Trustor covenants, warrants, and represents that there is no property owned or used by Trustor which contains Hazardous Material or Hazardous Material Contamination, emits or discharges Hazardous Material, or otherwise violates any Hazardous Material laws, such that a charge or lien as a result thereof could be placed upon the Property, or any liability therefor could be imposed upon Trustor.

**12.7 Remedial Action, Beneficiary's Consent.** Without Beneficiary's prior written consent, which shall not be unreasonably withheld, Trustor shall not take any remedial action in response to the presence of any Hazardous Material or Hazardous Material Contamination upon or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any violation or alleged violation of any Hazardous Material Laws, which remedial action, settlement, consent or compromise might, in Beneficiary's judgment, impair the value of Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Material or Hazardous Material Contamination on or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not possible to obtain Beneficiary's consent before taking such action. In such event, Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary shall not withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, or (ii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder.

**12.8 Beneficiary's Corrective Action.** In addition to the other remedies provided to Beneficiary elsewhere in the Loan Documents, Beneficiary shall have the right, but not the obligation to cause all Hazardous Material or Hazardous Material Contamination found on or in the Property to be removed therefrom, and in such event, the cost of the removal, including all expenses, charges, and fees incurred by Beneficiary in connection therewith, including attorneys, engineers, and consultants fees, shall be secured by this Deed of Trust,



shall be payable by Trustor on demand and shall bear interest at the Default Rate provided in the Note from the date advanced until paid. Trustor shall give to Beneficiary and its agents and employees access to the Property for such purposes; and Trustor hereby grants to Beneficiary, its agents and employees, full right and authority to remove any such Hazardous Material or Hazardous Material Contamination from the Property.

**12.9 Environmental Audit.** Beneficiary, at any time and from time to time during the term of the Loan, if it has reasonable cause to suspect that any provision of this Section 12 is not being complied with, may notify Trustor in writing that it desires a site assessment or environmental audit (such assessment or audit being herein called the "Audit") of the Property to be made, and at any time thereafter cause such site assessment or environmental audit to be made of the Property at Trustor's sole expense. Such Audit(s) shall be performed in a manner reasonably calculated to confirm and verify compliance with the provisions of this Section 12. Such results shall be kept confidential by both Trustor and Beneficiary unless either party is legally compelled or required to disclose such results, or disclosure is reasonably required in order to pursue rights or remedies provided herein or at law.

If Trustor fails to pay for the Audit as provided for herein within fifteen (15) days of receipt of billing therefor, Beneficiary may, at its election, declare a default hereunder, and, with or without declaring such default, add the cost thereof to the indebtedness secured by this Deed of Trust, in which case interest shall accrue at the Default Rate on such amount from the 16th day after billing until paid by Trustor.

Trustor covenants to reasonably cooperate with the persons conducting the Audit (the "Auditors") to allow entry and reasonable access to all portions of the Property for the purpose of the Audit, to supply the Auditors with all available historical and operational information regarding the Property as may reasonably be requested by the Auditors, and to make available for meetings with the Auditors appropriate personnel having knowledge of matters relevant to the Audit. Trustor covenants to comply, at its sole cost and expense, with all recommendation for additional testing and studies to detect the presence of Hazardous Material or Hazardous Material Contamination, or to otherwise confirm and verify Trustor's compliance with the provisions of this Section 12 to the extent required by Beneficiary.

**12.10 Indemnity and Hold Harmless.** Trustor shall be solely responsible for, and hereby agrees to indemnify and hold Beneficiary (including the respective successors, assigns, employees, agents, officers and directors of Beneficiary) harmless from, any and all actions, loss, liability, damage, cost or expense occasioned by, resulting from, or consequent to any Hazardous Material or Hazardous Material Contamination on the Property; any releases or discharges of Hazardous Material from the Property; any manufacturing, maintaining, holding, handling, transporting, spilling, leaking or dumping of Hazardous Material on or at the Property, any other violation of Hazardous Material Laws; any claim or assertion that any such Hazardous Material or Hazardous Material Contamination is so located on the Property or that any such activities or violations have been, or are being, engaged in on the Property; or any other failure or alleged failure of Trustor, Trustor's Agents, or the Property to comply with the provisions of this Section 12, notwithstanding any and all attempts by Trustor to exercise due diligence in ascertaining whether or not any of the events outlined above effect the Property. Such loss, liability, damage, cost, or expense hereby indemnified against shall include, without limitation:



- (a) All foreseeable consequential damages;
- (b) The costs of any required or necessary repair, cleanup or detoxification of the Property, including the soil and ground water thereof, and the preparation and implementation of any closure, remedial or other required plans;
- (c) Damage to any natural resources; and,
- (d) All reasonable costs and expenses incurred by Beneficiary in connection with clauses (a), (b) and (c), including but not limited to reasonable attorneys' and consultants' fees.

All costs and expenses incurred by Beneficiary for which Trustor is responsible, or for which Trustor has indemnified Beneficiary shall be paid by Trustor to Beneficiary within fifteen (15) days of demand therefore. Upon Trustor's failure to make such payment within said fifteen (15) day period, the full amount thereof shall be added to the indebtedness secured by this Deed of Trust and shall accrue interest from the sixteenth (16th) day after demand until paid at the Default Rate; and, at Beneficiary's election, such failure shall constitute a default hereunder.

Beneficiary shall have the right, but not the obligation, to join and participate in (as parties if they so elect), any legal or administrative proceeding or actions initiated in connection with any allegation that Trustor, Trustor's Agents, or the Property violate, or have violated, any provision of this Section 12, and to have their reasonable attorneys' and consultants' fees in connection therewith paid by Trustor upon demand.

The aforesaid indemnification and hold harmless agreement shall benefit Beneficiary from the date hereof and shall not be terminated on the Termination Date, but shall continue thereafter notwithstanding payment, release or discharge of this Deed of Trust or the indebtedness secured hereby; and, without limiting the generality of the foregoing such obligations shall continue for the benefit of Beneficiary, and their successors and assigns, during and following any possession of the Property thereby or any ownership of the Property by Beneficiary or their successors and assigns, whether arising by foreclosure or sale under the power of sale contained herein, transfer by deed in lieu of any such sale, or otherwise; such indemnification and hold harmless agreement to continue forever. In the event that this Deed of Trust or any other Loan Document contains a provision pursuant to which Trustor is relieved of personal liability for such indebtedness, such release of personal liability shall not include a release from Trustor's liabilities and obligations under this Section 12.

**12.11 Trustor's Failure to Comply.** In addition to any other right or remedy contained in this Deed of Trust, or in any other Loan Document, if Trustor shall fail to comply with any term, provision, or requirement of this Section 12, and if such failure to comply shall not be corrected within the lesser of the following time periods (the "Correction Period"):

- (a) Fifteen (15) days after notice thereof from Beneficiary; or
- (b) The time period specified by any governmental or regulatory body for corrective action with respect to such failure to comply; then such failure to comply shall, at Beneficiary's election and without further notice, constitute a default under this Deed of Trust.



Provided, however, if Trustor's failure to comply shall be of such nature that it cannot reasonably be corrected within the Correction Period, and if Trustor shall, within said Correction Period, commence during such failure to comply, and thereafter diligently prosecute such corrective action to completion, and provided the governmental or regulatory body having jurisdiction with respect to such failure shall not object, then Trustor shall have a reasonable additional period beyond said Correction Period in which to cure such failure to comply.

**12.12 Survival.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS DEED OF TRUST, THE NOTE OR ANY LOAN DOCUMENTS, TRUSTOR'S REPRESENTATIONS, WARRANTIES, COVENANTS AND INDEMNITIES CONTAINED IN THIS SECTION 12 SHALL SURVIVE THE OCCURRENCE OF ANY EVENT WHATSOEVER, INCLUDING WITHOUT LIMITATION THE PAYOFF OF THE PROMISSORY NOTE SECURED HEREBY, THE RECONVEYANCE OR FORECLOSURE OF THIS DEED OF TRUST, THE ACCEPTANCE BY TRUSTEE OF A DEED IN LIEU OF FORECLOSURE, OR ANY TRANSFER OR ABANDONMENT OF THE PROPERTY.

**13. Grazing Rights.** If any portion of the Property described in this Deed of Trust is used by Trustor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitation the Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Trustor covenants and agrees as follows:

(a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Beneficiary;

(b) Trustor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all laws, rules and regulations applicable thereto;

(c) Trustor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights from time to time as they expire during the term thereof. Trustor agrees and acknowledges that the failure to renew or cause the reissuance of any said permits for any reason, whether the result of an act or omission of Trustor or for reasons beyond Trustor's control, is an event of default hereunder and Beneficiary shall have the right to exercise the rights set forth in this Deed of Trust; and

(d) Trustor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Trustor fails to pay any such payment, the amount unpaid shall become a part of the Indebtedness and shall be immediately due and payable.

**14. Water Transfers.** Trustor represents that Trustor is not in the business of transferring water and, therefore, any sale or transfer of any water or water rights is not a transfer of goods in the ordinary course of business. Trustor further agrees that in no event will any water or water rights be goods identified to a contract. Trustor hereby acknowledges that the availability of the water and the other Water Assets to the Property was a significant factor in Beneficiary's decision to extend credit to Trustor and any other persons obligated on the



Indebtedness, and that any severance of water or water rights or any other Water Asset from the Property would materially harm the Property.

**15. Financial Information.** At Beneficiary's request, Trustor shall provide to Beneficiary financial Information in a form acceptable to Beneficiary, including, when so required, a current balance sheet and profit and loss statement. In the case of multiple Trustors, financial information must be provided for each Trustor or otherwise as requested by Beneficiary. Financial information shall be provided at such times during the term of this Deed of Trust as Beneficiary may request.

**16. Condemnation Awards.** Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Beneficiary, under the terms and conditions of this Deed of Trust pertaining to Rents. Upon receipt of such money, Beneficiary may apply the same on the Indebtedness. Trustor agrees to execute such further documents as may be required to effect the assignments herein made as Beneficiary or Trustee may require.

**17. Trustee Actions.** At any time, without affecting the liability of any person for the payment of the Indebtedness, and without otherwise affecting the security hereof, Trustee may: (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Deed of Trust; (d) extend or modify the term of the loan or loans secured hereby; and (e) reconvey without warranty, all or any part of the Property. Trustor agrees to pay reasonable Trustee's fees for any of the foregoing services.

**18. Collection of Rents.** Prior to any default by Trustor in the payment, observance, performance and discharge of any condition, obligation, covenant, or agreement of Trustor contained herein, Trustor may, as the agent and fiduciary representative of Beneficiary for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Trustor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Deed of Trust and to the payment of all other amounts payable under this Deed of Trust and, thereafter, so long as aforesaid has occurred, the balance shall be distributed to the account of Trustor. However, Beneficiary shall have the right before or after the occurrence of any default to notify any account debtor to pay all amounts owing with respect to Rents directly to Beneficiary. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the Indebtedness, enter upon and take possession of the Property or any part thereof, in its own name, sue for or otherwise collect such Rents, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any Indebtedness, and in such order as Beneficiary may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the Indebtedness.





**19. Trustee's Exercise of Remedies is No Cure of Default.** The entering upon and taking possession of the Property, the collection of such Rents, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the 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.

**20. Remedies Upon Default.**

**20.1 Events of Default.** Any of the following events shall be deemed a "default," an "event of default," or "Event of Default" hereunder, as those terms are used herein and in the other documents evidencing this loan:

(a) Default shall be made in the payment of any installment of principal or interest or any other sum secured hereby when due, and such failure continues for more than five (5) days from the date payment is due; or

(b) Trustor shall file a voluntary petition in bankruptcy or shall be adjudicated a bankrupt or insolvent, or shall file any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Trustor or of all or any part of the Property, or of any or all of the royalties, revenues, rents, issues or profits thereof, or shall make any general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due; or

(c) A court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Trustor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator of Trustor or of all or any part of the Property, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Trustor and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(d) A writ of execution or attachment or any similar process shall be issued or levied against all or any part of or interest in the Property, or any judgment involving monetary damages shall be entered against Trustor which shall become a lien on the Property or any portion thereof or interest therein and such execution, attachment or similar process or judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after entry or levy; or

(e) There has occurred a breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the Loan Instruments or any part thereof, not referred to in this Section 20.1.



(f) There has occurred a violation of any condition, covenant or restriction recorded against or affecting the Property.

(g) There has occurred a sale or transfer of the Property or any other interest in violation of the terms set forth in Section 24 of this Deed of Trust.

(h) The dissolution of Trustor or any of its partners.

(i) Any Hazardous Materials become present in or on the Property other than those for which Beneficiary has given prior written approval and which are licensed and approved in accordance with all applicable laws and regulations.

(j) If at any time there is a discharge, deposit, injection, dumping, spilling, leaking, incineration or placing of any Hazardous Materials into or on the Property, other than those for which Beneficiary has given prior written approval and which are licensed and approved in accordance with all applicable laws and regulations.

(k) If at any time, the use, generation, treatment, storage or disposal of any Hazardous Materials into or on the Property is in violation of the Superfund and Hazardous Waste Laws.

(l) If at any time, Trustor or any Guarantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement in favor of Beneficiary or any other creditor or person that may materially affect any of Trustor's property or Trustor's or Guarantor's ability to repay the Note or perform their respective obligations under the Note or any of the loan documents.

**20.2 Acceleration Upon Default, Additional Remedies.** In the event of default or an event of default under this Deed of Trust, Beneficiary may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Property, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Property, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and applying the same, less costs and expenses of operation and collection, including attorneys' fees, upon any indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan



Instruments or by law upon occurrence of any event of default; including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Exercise any or all of the remedies available to a secured party under the Nevada Uniform Commercial Code, including, but not limited to:

(i) Either personally or by means of a court appointed receiver, take possession of all or any of the Personal Property and exclude therefrom Trustor and all others claiming under Trustor, and thereafter hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Trustor in respect to the Personal Property in the exercise of any rights under any of the documents evidencing this loan, Trustor promises and agrees to promptly turn over and deliver complete possession thereof to Beneficiary.

(ii) Without notice to or demand upon Trustor, make such payments and do such acts as Beneficiary may deem necessary to protect its security interest in the Personal Property, including without limitation, paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior to or superior to the security interest granted hereunder, and in exercising any such powers or authority to pay all expenses incurred in connection therewith;

(iii) Require Trustor to assemble the Personal Property or any portion thereof, at a place designated by Beneficiary and reasonably convenient to both parties, and promptly to deliver such Personal Property to Beneficiary, or an agent or representative designated by it. Beneficiary, and its agents and representatives shall have the right to enter upon any of all of Trustor's premises and property to exercise Beneficiary's rights hereunder;

(iv) Sell, lease or otherwise dispose of the Personal Property at public sale, with or without having the Personal Property at the place of sale, and upon such terms and in such manner as Beneficiary may determine. Beneficiary may be a purchaser at any such sale.

Unless the Personal Property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Beneficiary shall give Trustor at least ten (10) days' prior written notice of the time and place of any public sale of the Personal Property or other intended disposition thereof. Such notice may be mailed to Trustor at the address set forth at the beginning of this Deed of Trust.

(d) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Property to be sold, which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of the County in which the Property is located.

**20.3 Foreclosure By Power of Sale.** If Beneficiary elects to exercise the power of sale granted to Trustee hereunder, Beneficiary shall cause to be given, upon such



election, such notice of default and election to sell as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, at the time and place specified in the notice of sale, Trustee shall sell such Property, or any portion thereof specified by Beneficiary, at public auction to the highest bidder for cash in lawful money of the United States. Trustee may, and upon request of Beneficiary shall, from time to time, postpone the sale by public announcement thereof at the time and place noticed therefor. If the Property consists of several lots, parcels or interests, Beneficiary may designate the order in which the same shall be offered for sale or sold. Should Beneficiary desire that more than one such sale or other disposition be conducted, Beneficiary may, at its option, cause the same to be conducted simultaneously, or successively on the same day, or at such different days or times and in such order as Beneficiary may deem to be in its best interest. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. Upon any sale, Trustee shall execute and deliver to the purchaser or purchasers a deed or deeds conveying the Property so sold, but without any covenants or warranty whatsoever, express or implied, whereupon such purchaser or purchasers shall be let into immediate possession.

Except as otherwise required by law, Beneficiary may apply the proceeds of any foreclosure hereunder to payment of the following: (i) the expense of such foreclosure, (ii) the cost of any search or other evidence of title procured in connection therewith, including the premium for any Trustee's Sale Guaranty, and the real property transfer tax on any deed or conveyance, (iii) all sums expended under the terms hereof, not then repaid, with accrued interest at the lesser rate of the maximum interest rate permissible under Nevada law or eighteen percent (18%) per annum, (iv) all other sums secured hereby and (v) the remainder, if any, to the person or persons legally entitled.

Upon any sale or sales made under or by virtue of this section, whether made under the power of sale or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Beneficiary may bid for and acquire the Property or any part thereof. In lieu of paying cash for the Property, Beneficiary may make settlement for the purchase price by crediting the Secured Obligations, or any portion thereof, against the sales price of the Property.

Trustor agrees to pay any deficiency arising from any cause after application of the proceeds of the sale held in accordance with applicable law and the provisions hereof.

Covenants 1, 3, 4 (interest at the Note Rate), 5, 6, 7 (reasonable counsel fees), 8 and 9 of NRS 107.030 are hereby adopted by reference and made a part hereof to the extent not inconsistent with any other provisions contained herein.

In accordance with Section 40.512 of the Nevada Revised Statutes ("**NRS**"), Beneficiary may waive its lien against the Property or any portion thereof, together with fixtures or personal property thereon, to the extent such property is found to be environmentally impaired, and may exercise any and all rights and remedies of an unsecured creditor against Trustor and all of Trustor's assets and property for the recovery of deficiency, including, without limitation, seeking an attachment order under NRS Chapter 31. No such waiver shall be final or binding on Beneficiary unless and until a final money judgment is obtained against Trustor. As between Beneficiary and Trustor, for purpose of NRS 40.505, Trustor shall have the burden of proving that the release or threatened release was not knowingly or negligently caused or contributed to, or knowingly or willfully permitted or acquiesced to by Trustor or any related party (or any



affiliate or agent of Trustor or any related party) and that Trustor made written disclosure of the release to Beneficiary or that Beneficiary otherwise obtained actual knowledge thereof Trustor's obligations hereunder shall survive the foreclosure, deed in lieu of foreclosure, release, reconveyance or any other transfer of the Property or this Deed of Trust. For the purposes of any action brought under this Section, Trustor hereby waives the defense of laches and any applicable statute of limitations.

**20.4 Appointment of Receiver.** If a default or an event of default described in Section 20.1 of this Deed of Trust shall have occurred and be continuing, Beneficiary as a matter of right and without notice to Trustor or anyone claiming under Trustor, and without regard to the then value of the Property or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Property, and Trustor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Beneficiary in case of entry as provided in Section 20.2(a) and shall continue as such and exercise all such powers until the date of confirmation of sale of the Property unless such receivership is sooner terminated.

**20.5 Remedies Not Exclusive.** Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Deed of Trust or under any Loan Instrument or other agreement or any laws now or hereafter in force, notwithstanding some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Deed of Trust nor its enforcement whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies.

**20.6 Request for Notice.** Trustor hereby requests a copy of any notice of default and that any notice of sale hereunder be mailed to it at the address set forth in the first paragraph of this Deed of Trust.

**21. Non-Waiver.** The failure on the part of the Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right, and the waiver by Beneficiary of any default shall not constitute a waiver of any other or subsequent defaults. Subsequent acceptance of any payment by the holder hereof shall not be deemed a waiver of any default by Trustor, or of Beneficiary's rights hereunder as the result of any sale, agreement to sell,



conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

**22. Successors and Assigns.** 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 holder and owner of any note secured hereby; or, if the note has been pledged, the pledgee thereof. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

**23. Substitute Trustee.** Beneficiary may, from time to time or at any time, substitute a Trustee or Trustees to execute the trust hereby created, and when any such substitution has been filed for record in the office of the Recorder of the county in which the Property herein described is situated, it shall be conclusive evidence of the appointment of such Trustee, or Trustees, and such new Trustee or Trustees shall succeed to all of the powers and duties of the Trustee or Trustees named herein.

**24. Due on Sale or Transfer.**

**24.1** In the event the herein-described Property, (including, but not limited to, any existing or subsequently acquired or created Water Asset), or any part thereof, or any interest therein, is transferred or agreed to be transferred, without Beneficiary's prior written consent, all Indebtedness, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. As used herein, "transferred" means sold, conveyed, alienated, exchanged, transferred by gift, further encumbered, pledged, hypothecated, made subject to an option to purchase, or otherwise disposed of, directly or indirectly, or in trust, voluntarily or involuntarily, by Truster or by operation of law or otherwise. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of subsequent transfer or subsequent agreement to transfer.

**24.2** If Truster is an entity other than a natural person (such as a corporation or other organization), then all Indebtedness, irrespective of the maturity date, at the option of Beneficiary, and without demand or notice, shall become immediately due and payable if: (a) a beneficial interest in Truster is transferred; (b) there is a withdrawal or removal of a general partner of a partnership or a manager of a limited liability company; (c) there is a transfer in the aggregate of more than 25% of the voting stock of Truster if Truster is a corporation, or there is a transfer in the aggregate of more than 25% of the partnership interests or membership interests if Truster is a partnership, limited liability company or similar entity; or (d) Truster is dissolved or its existence as a legal entity is terminated.

**25. Severability.** In the event any one or more of the provisions contained in this Deed of Trust or in any promissory note, guaranty, or other document secured hereby shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Deed of Trust or said promissory note or guaranty, but this Deed of Trust and said promissory notes or guaranties shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.



**26. Notices to Trustor.** The undersigned Trustor agrees that he/she is entitled only to those notices required by applicable law and requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth in the initial paragraph of this Deed of Trust.

**27. Exhibits.** All exhibits to this Deed of Trust are considered to be incorporated into and made a part of this Deed of Trust.

**28. Joint and Several Liability and Legal Entity Warranty and Certification.** If Trustor consists of more than one person, each will be jointly and severally liable for the faithful performance of all of Trustor's obligations under this Deed of Trust. If Trustor is a legal entity, Trustor (and any person signing this Deed of Trust in a representative capacity on behalf of Trustor) represents, warrants and certifies that Trustor is duly constituted under applicable laws and in good standing; that Trustor has the power, authority, and appropriate authorization to execute this Deed of Trust and enter into the transactions described herein and that, when executed, this Deed of Trust, and any document executed by Trustor in connection herewith, shall be valid and legally binding on Trustor. If Trustor is a trust, each trustee executing this Deed of Trust on behalf of the trust also represents, warrants and certifies that this Deed of Trust and any document executed in connection herewith is being executed by all the currently acting trustees of the trust and that the trust has not been revoked, modified, or amended in any manner which would cause any of the foregoing to be incorrect.

**29. Non-Merger.** No merger will occur as a result of Beneficiary acquiring any other estate in or any other lien on the Property, unless Beneficiary consents to a merger in writing.

**30. Miscellaneous.**

**30.1 Captions.** As used herein, the word "including" means "including without limitation" and/or "including but not limited to". The captions used in this Deed of Trust are for convenience only and do not define or limit any terms or provisions. No listing of any specific collateral, items, instances or other matters in any way limits the scope or generality of any language of this Deed of Trust.

**30.2 Acceptance by Trustee.** Trustee accepts this Trust when the Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

**30.3 Captions.** The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

**30.4 Invalidity of Certain Provisions.** If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Trust Estate, the unsecured or partial secured portion of the debt shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid on and applied to the full payment of that portion of the debt which is not secured or fully secured by the lien of this Deed of Trust. If any provision of the Loan Instruments shall be deemed void or



unenforceable, it shall not affect the validity of the remaining provisions thereof which shall be considered.

**30.5 Subrogation.** To the extent that proceeds of the Note or advances under this Deed of Trust are used to pay any outstanding lien, charge or prior encumbrance against the Trust Estate, such proceeds or advances have been or will be advanced by Beneficiary at Trustor's request and Beneficiary shall be subrogated to any and all rights and liens held by any owner or holder of such outstanding liens, charges and prior encumbrances, irrespective of whether said liens, charges or encumbrances are released.

**30.6 No Merger.** If both the Lessor's and Lessee's estates under any lease or any portion thereof which constitutes a part of the Trust Estate 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 as to the separate estates. In addition, upon the foreclosure of the lien created by this Deed of Trust on the Trust Estate pursuant to the provisions hereof, any leases or subleases then existing and created by Trustor shall not 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.

**30.7 Waiver.** The acceptance by Beneficiary of any sum after the same is due shall not constitute a waiver of the right either to require prompt payment, when due, of all other sums hereby secured or to declare a default as herein provided. The acceptance by Beneficiary of any sum in an amount less than the sum then due shall be deemed an acceptance on account only and upon condition that it shall not constitute a waiver of the obligation of Trustor to pay the entire sum then due, and Trustor's failure to pay said entire sum then due shall be and continue to be a default notwithstanding such acceptance of such amount on account, as aforesaid, and Beneficiary or Trustee shall be at all times thereafter and until the entire sum then due shall have been paid, and notwithstanding the acceptance by Beneficiary thereafter of further sums on account, or otherwise, entitled to exercise all rights in this instrument conferred upon them, or either of them, upon the occurrence of a default, and the right to proceed with a sale under any notice of default, and election to sell, shall in no way be impaired, whether any of such amounts are received prior or subsequent to such notice. Consent by Beneficiary to any transaction or action of Trustor which is subject to consent or approval of Beneficiary hereunder shall not be deemed a waiver of the rights to require such consent or approval to future or successive transactions or actions.

**30.8 Modifications in Writing.** This Deed of Trust may not be changed, terminated, or modified orally or in any other manner than by an instrument in writing signed by the party against whom enforcement is sought.

**30.9 Beneficiary's Right to Enter, Inspect and Cure.** Beneficiary is authorized, by itself, its contractors, agents, employees or workmen, to enter at any reasonable time upon any part of the Property for the purpose of inspecting the same, and for the purpose of performing any of the acts it is authorized to perform under the terms of this Deed of Trust.





**30.10 Counterparts.** This Deed of Trust may be executed in counterparts, all of which executed counterparts shall together constitute a single document. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date first above written.

TRUSTOR:

Double U Livestock, LLC  
an Oregon Limited Liability Company

By: James A. West  
James A. West, member

By: Carleen J. West  
Carleen J. West, member

By: Clayton J. West  
Clayton J. West, member

By: Mary West  
Mary West, member

By: Wade S. West  
Wade S. West, member

By: Molly West  
Molly West, member



0128841

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STATE OF NEVADA )  
 )ss.  
COUNTY OF WHITE PINE )

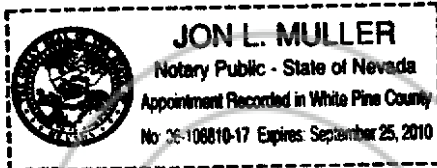
This instrument was acknowledged before me on 22 APRIL, 2007 by  
JAMES A. WEST, as MEMBER of  
DOUBLE U LIVESTOCK, a LLC.



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF NEVADA )  
 )ss.  
COUNTY OF WHITE PINE )

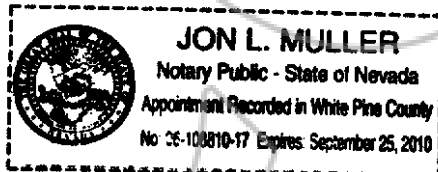
This instrument was acknowledged before me on 22 APRIL, 2007 by  
CHARLEEN J. WEST, as MEMBER of  
DOUBLE U LIVESTOCK, a LLC.



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF NEVADA )  
 )ss.  
COUNTY OF WHITE PINE )

This instrument was acknowledged before me on 22 APRIL, 2007 by  
CLAYTON J. WEST, as MEMBER of  
DOUBLE U LIVESTOCK, a LLC.



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_



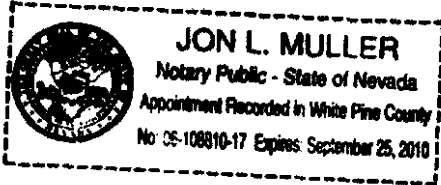
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Page: 64

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Page: 27 of 32

STATE OF NEVADA )  
 )ss.  
COUNTY OF WHITE PINE )

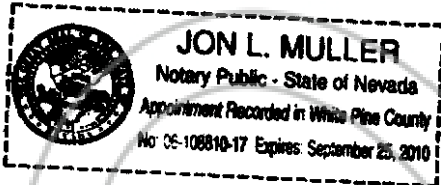
This instrument was acknowledged before me on 22 APRIL, 2007, by  
MARY S WEST, as MEMBER of  
DOUBLE U LIVESTOCK, a LLC



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF NEVADA )  
 )ss.  
COUNTY OF WHITE PINE )

This instrument was acknowledged before me on 22 APRIL, 2007, by  
WAGE S WEST, as MEMBER of  
DOUBLE U LIVESTOCK, a LLC



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_

STATE OF NEVADA )  
 )ss.  
COUNTY OF WHITE PINE )

This instrument was acknowledged before me on 22 APRIL, 2007, by  
MOLLY WEST, as MEMBER of  
DOUBLE U LIVESTOCK, a LLC



[Signature]  
Notary Public  
My Commission Expires: \_\_\_\_\_



**EXHIBIT "A"**

**Legal Description**

PARCEL 1:

Township 21 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 1: SE1/4NE1/4
- Section 2: S1/2NE1/4; Lot 2
- Section 11: NW1/4NW1/4
- Section 12: SE1/4SW1/4
- Section 13: E1/2NW1/4; W1/2SW1/4
- Section 14: N1/2NW1/4; NE1/4SW1/4
- Section 21: SW1/4SW1/4
- Section 22: NW1/4NW1/4
- Section 23: SE1/4SE1/4
- Section 26: SW1/4SE1/4
- Section 29: SE1/4NE1/4
- Section 32: NW1/4SE1/4

Township 22 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 13: SE1/4NW1/4; NW1/4SE1/4
- Section 14: W1/2NE1/4; E1/2SE1/4; NW1/4SE1/4
- Section 23: E1/2NE1/4
- Section 24: SW1/4NW1/4; W1/2SW1/4
- Section 25: SE1/4SW1/4; W1/2W1/2
- Section 26: NE1/4SE1/4; SW1/4NE1/4
- Section 36: E1/2NW1/4; NE1/4SW1/4; SW1/4SW1/4; SW1/4NE1/4; SE1/4

Township 25 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 1: Lot 3
- Section 2: Lots 1, 2, 3, 5, 6, and 12; SE1/4SE1/4
- Section 3: Lot 9; NW1/4SE1/4
- Section 5: Lot 6
- Section 7: SE1/4SW1/4; S1/2SE1/4
- Section 8: SW1/4SW1/4
- Section 11: S1/2NE1/4
- Section 12: SW1/4NW1/4; N1/2SW1/4
- Section 13: SW1/4SW1/4
- Section 14: NW1/4NE1/4; SE1/4NE1/4; E1/2SE1/4
- Section 17: W1/2NW1/4
- Section 18: NE1/4; E1/2NW1/4
- Section 24: SE1/4NE1/4
- Section 25: W1/2NW1/4
- Section 26: N1/2NE1/4



Township 26 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 21: NW1/4NE1/4
- Section 22: N1/2NW1/4; SE1/4NW1/4; NW1/4NE1/4
- Section 24 SW1/4SE1/4
- Section 25: NW1/4NE1/4
- Section 29: SE1/4NE1/4; N1/2SE1/4; SW1/4SE1/4; E1/2SW1/4
- Section 32: NE1/4NW1/4; NW1/4NE1/4
- Section 36: S1/2SE1/4

Excepting therefrom that certain cemetery known as the Stratton Cemetery Tract over a portion of Township 26 North, Range 62 East, M.D.B.&M., location not disclosed, reserved by Emma Stratton, et al, in deed recorded June 26, 1943 in Book 137, Page 203, Real Estate Records, White Pine County, Nevada, and September 21, 1984 in Book 472, Page 35, Official Records, Elko County, Nevada.

Township 26 North, Range 62 East, M.D.B.&M. (Elko County)

- Section 15: S1/2SW1/4; SW1/4SE1/4
- Section 16: SW1/4NW1/4

Excepting therefrom that certain cemetery known as the Stratton Cemetery Tract over a portion of Township 26 North, Range 62 East, M.D.B.&M., location not disclosed, reserved by Emma Stratton, et al, in deed recorded June 26, 1943 in Book 137, Page 203 of Real Estate Records, White Pine County, Nevada, and September 21, 1984 in Book 472, Page 35, Official Records, Elko County, Nevada.

Township 27 North, Range 62 East, M.D.B.&M. (Elko County)

- Section 1: SW1/4SE1/4; S1/2SW1/4
- Section 2: S1/2SE1/4; S1/2SW1/4; NE1/4SW1/4
- Section 12: NE1/4NW1/4
- Section 28: W1/2SE1/4
- Section 33: SE1/4SW1/4

Township 28 North, Range 62 East, M.D.B.&M. (Elko County)

- Section 3: S1/2SW1/4
- Section 10: NW1/4NW1/4

Township 26 North, Range 63 East, M.D.B.&M.

- Section 5: SE1/4SE1/4 (Elko County)
- Section 28: NE1/4NW1/4 (White Pine County)
- Section 31: S1/2SW1/4 (White Pine County)



Township 27 North, Range 63 East, M.D.B.&M. (Elko County)

- Section 4: SW1/4SE1/4
- Section 5: SE1/4NE1/4
- Section 7: SW1/4SE1/4
- Section 17: SW1/4NW1/4

Township 27 North, Range 67 East, M.D.B.&M.

- Section 29: NW1/4SE1/4

Township 26 North, Range 66 East, M.D.B.&M.

- Section 12: SW1/4SE1/4

PARCEL 2:

Township 25 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 3: NE1/4SE1/4
- Section 22: SE1/4NE1/4; NE1/4NW1/4; E1/2SE1/4
- section 23: W1/2SW1/4

Township 26 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 22: S1/2NE1/4

Excepting therefrom that certain cemetery known as the Stratton Cemetery Tract over a portion of Township 26 North, Range 62 East, M.D.B.&M., location not disclosed, reserved by Emma Stratton, et al, in deed recorded June 16, 1943 in Book 137, Page 203, Real Estate Records, White Pine County, Nevada, and September 21, 1984 in Book 472, Page 35, Official Records, Elko County, Nevada.

PARCEL 3:

Township 25 North, Range 62 East, M.D.B.&M. (White Pine County)

- Section 3: NW1/4SW1/4SE1/4; NE1/4SE1/4SW1/4; SE1/4NE1/4SW1/4



PARCEL 4;

Township 26 North, Range 62 East, M.D.B.&M.

Section 21: NW1/4; S1/2NE1/4; NE1/4NE1/4 (White Pine County)

Section 22: SW1/4NW1/4 (White Pine County)

Section 33: SW1/4; SE1/4NW1/4; SW1/4NE1/4; W1/2SE1/4; (White Pine County)

Excepting therefrom that certain cemetery known as the Stratton Cemetery Tract over a portion of Township 26 North, Range 62 East, M.D.B.&M., location not disclosed, reserved by Emma Stratton, et al, in deed recorded June 16, 1943 in Book 137, Page 203, Real Estate Records, White Pine County, Nevada, and September 21, 1984 in Book 472, Page 35, Official Records, Elko County, Nevada.

Township 25 North, Range 62 East, M.D.B.&M.

Section 22: NE1/4NE1/4 (White Pine County)

Section 23: SW1/4SE1/4; NE1/4SE1/4; W1/2NW1/4; SE1/4NW1/4; E1/2SW1/4 (White Pine County)

Township 23 North, Range 63 East, M.D.B.&M. (White Pine County)

Section 5: Lot 4 of NW1/4

Section 6: Lot 2 of NE1/4

Township 24 North, Range 63 East, M.D.B.&M. (White Pine County)

Section 31: N1/2SW1/4

Township 26 North, Range 63 East, M.D.B.&M.

Section 34: W1/2SE1/4 (White Pine County)

PARCEL 5:

Township 25 North, Range 62 East, M.D.B.&M. (White Pine County)

Section 15: SE1/4SW1/4; S1/2SE1/4

Section 22: NW1/4NE1/4



PARCEL 6:

Township 26 North, Range 62 East, M.D.B.&M.

Section 16: E1/2SW1/4; S1/2SE1/4; W1/2SW1/4 (Elko County)

Excepting therefrom that certain cemetery known as the Stratton Cemetery Tract over a portion of Township 26 North, Range 62 East, M.D.B.&M., location not disclosed, reserved by Emma Stratton, et al, in deed recorded June 16, 1943 in Book 137, Page 203, Real Estate Records, White Pine County, Nevada, and September 21, 1984 in Book 472, Page 35, Official Records, Elko County, Nevada.

PARCEL 7:

Township 26 North, Range 62 East, M.D.B.&M. (White Pine County)

Section 32: SE1/4NE1/4; E1/2SE1/4  
Section 33: SW1/4NW1/4

PARCEL 8:

Township 24 North, Range 60 East, M.D.B.&M. (White Pine County)

Section 2: SE1/4NE1/4

Township 25 North, Range 60 East, M.D.B.&M. (White Pine County)

Section 2: SE1/4NW1/4

PARCEL 9:

The Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of Section 3, Township 3 South, Range 57 East, M.D.B.&M. in Lincoln County, Nevada.