

Trust No. 0-4495-BE  
Order No.

BOOK 321 PAGE 197

# Trust Agreement

THIS AGREEMENT made and entered into this  
19 61, by and between

27<sup>th</sup>

day of June

ROBERT E. OVERTREE and FERN W. OVERTREE,  
his wife,

hereinafter designated as "First Beneficiary"; and

GILLES DeFLON and SIGNE DeFLON, his wife

and

HOWARD W. HUNTER and CLARA J. HUNTER, his wife,

hereinafter designated as "Second Beneficiary", and SECURITY TITLE COMPANY, a Utah Corporation, herein  
after designated as "Trustee";

### WITNESSETH:

THAT, WHEREAS, First Beneficiaries are the owners of the following described property, situate in the  
County of BOX ELDER, State of Utah, to-wit:

SEE ATTACHED SCHEDULES A, B AND C.

RECORDERS  
NUMBER

71865H

JUL 2 1979

DATE

TIME

10:45 AM

BOOK

321

PAGE

197

FEES

\$ 52.50

MARGARET R. EVANS  
RECORDER BOX ELDER, COUNTY, UT.

BY

*Margaret R. Evans*

DEPUTY

AND, WHEREAS, Second Beneficiary desires to purchase said property from First Beneficiary, and First  
Beneficiary desires to sell said property to Second Beneficiary, all upon the terms and conditions hereinafter  
set forth and contained;

NOW, THEREFORE, in consideration of the premises and for and in consideration of the mutual covenants,  
conditions and agreements set forth herein, the parties hereto agree as follows:

SCHEDULE A

DESCRIPTION

| <u>TOWNSHIP AND RANGE</u>     | <u>PORTION OF SECTION</u>   | <u>ACRES</u>     |
|-------------------------------|---|------------------|
| T9N, R7W                      | Section 5: All;   | 640.00           |
|                               | Section 6: All;   | 640.48           |
|                               | Section 7: All;   | 640.00           |
|                               | Section 8: All;   | 640.00           |
|                               | Section 16: All;  | 640.00           |
|                               | Section 17: All;  | 640.00           |
|                               | Section 18: All;  | 640.72           |
|                               | Section 19: All;  | 640.00           |
|                               | Section 21: All;  | 640.00           |
|                               | Section 28: All;  | 640.00           |
| T9N, R8W                      | Section 29: All;  | 640.00           |
|                               | Section 30: All;  | 640.19           |
|                               | Section 1: All;   | 640.00           |
|                               | Section 3: All;   | 640.00           |
|                               | Section 5: All, (Fractional)  | 26.36            |
|                               | Section 9: All, (Fractional)  | 118.35           |
|                               | Section 11: All;  | 640.00           |
|                               | Section 13: All;  | 640.00           |
| T10N, R7W                     | Section 15: All, (Fractional)   | 257.00           |
|                               | Section 23: All, (Fractional)   | 565.66           |
|                               | Section 25: All, (Fractional)   | 634.38           |
|                               | Section 6: N $\frac{1}{2}$ ;  | 320.12           |
|                               | Section 7: All;   | 640.00           |
|                               | Section 19: All;  | 639.68           |
|                               | Section 20: W $\frac{1}{2}$ W $\frac{1}{2}$ ; W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$ ; | 240.00           |
| T10N, R8W                     | Section 29: W $\frac{1}{2}$ ;   | 320.00           |
|                               | Section 30: All;  | 640.00           |
|                               | Section 31: All;  | 640.00           |
|                               | Section 32: All;  | 640.00           |
|                               | Section 1: All;   | 709.00           |
|                               | Section 3: All, (Fractional)  | 102.25           |
|                               | Section 10: All, (Fractional)   | 209.87           |
|                               | Section 11: All;  | 640.00           |
|                               | Section 12: N $\frac{1}{2}$ ;   | 320.00           |
|                               | T10N, R8W   | Section 13: All; |
| Section 14: All;              |   | 640.00           |
| Section 15: All, (Fractional) |   | 635.07           |
| Section 21: All, (Fractional) |   | 613.88           |
| Section 23: All;              |   | 640.00           |
| Section 25: All;              |   | 640.00           |
| Section 26: All;              |   | 640.00           |
| Section 27: All;              |   | 640.00           |
| T10N, R8W                     | Section 29: All, (Fractional)   | 227.00           |
|                               | Section 33: All;  | 640.00           |
|                               | Section 35: All;  | 640.00           |
|                               |   | 24,500.01        |
|                               |   |                  |

RESERVING THEREFROM an Easement for ingress and egress over and across the existing roadway in Section 28, Township 9 North, Range 7 West, Salt Lake Meridian. If the Second Beneficiaries or their successors or assigns shall construct a fence across such easement they shall, in connection with such fence, permit access there through by the construction of an appropriate gate or cattle-guard.

EXCEPTING THEREFROM all oil, gas and minerals from said property, and other minerals and/or substances of any kind or nature that may be found in, on, or under said lands, together with the rights of ingress and egress over, upon and across said lands for the purpose of removing all such oil, gas and minerals.

SCHEDULE B

Grazing leases on the following state owned land:

| <u>Township and Range</u> | <u>Portion of Section</u> | <u>Acres</u>   |
|---------------------------|---------------------------|----------------|
| T9N, R8W                  | All Sec. 2                | 638.48         |
|                           | A                         |                |
| T10N, R8W                 | All Sec. 2                | 640.00         |
|                           | All Fractional Sec. 16    | 83.17          |
|                           | All Fractional Sec. 32    | 231.66         |
|                           | All Sec. 36               | 640.00         |
|                           |                           | <u>2233.31</u> |

SCHEDULE C

Grazing leases on the following federal owned land:

| <u>Township and Range</u> | <u>Portion of Section</u> | <u>Acres</u>   |
|---------------------------|---------------------------|----------------|
| T9N, R8W                  | All Fractional Sec. 4     | 509.21         |
|                           | Part Sec. 10              | 474.83         |
|                           | All Sec. 12               | 640.00         |
|                           | All Sec. 14               | 640.00         |
|                           | All Fractional Sec. 22    | 12.06          |
|                           | All Sec. 24               | 640.00         |
|                           | All Fractional Sec. 26    | 182.53         |
| T10N, R8W                 | All Fractional Sec. 20    | 83.01          |
|                           | All Sec. 22               | 640.00         |
|                           | All Sec. 28               | 640.00         |
|                           | All Sec. 34               | 640.00         |
|                           |                           | <u>5101.61</u> |

~~ASSTD. IN BOOK 4 OF Sec. PAGE 293, 299, 37, 39, 513, ✓  
 10 of Sec pg. 357, ✓  
 11 of Sec pg 157, 159, 428, 13 ✓  
 12 of Sec pg 281, 283, 285, 287, 289, 35, 37, 251, 243, ✓  
 15 of Sec pg 347, 203, ✓  
 4 of Sec pg 343, 295, 283, 478, 479, 16, 462, 463, 3, ✓  
 3 of Sec pg 29, 387, 59, 285, 250, 251, 109, 174, 359, ✓  
 X of Sec pg 259, ✓  
 2 of Sec pg 37, 38, 36, 26, ✓  
 1 of Sec pg 126, 43, 106, ✓  
 1 of Sec pg 417, 419, 421, ✓  
 1 of Sec pg 285, 285, ✓  
 1 of Sec pg 452, 486, 487, ✓  
 11 of Sec 46, 47, 60, 403, 453, ✓  
 1 of Sec pg 194 ✓  
 Jondery ✓ ✓ ✓~~

I

First Beneficiary shall, simultaneously with the execution of this Agreement, convey said property to said Trustee free and clear of all liens and encumbrance other than specifically set forth herein, for the purpose and upon the terms and conditions hereinafter set forth and contained.

II

The trust herein provided for is established and exists and shall be operated for the purpose of carrying out the sale of said property by First Beneficiary to Second Beneficiary and otherwise handling the same to accomplish all of the terms and conditions herein provided. The Trustee is hereby granted full power to do all acts necessary to accomplish the purposes of this Agreement.

III

The title in and to the above described property, together with all of the proceeds from the sale thereof to Second Beneficiary herein, and all monies that may be paid into the hands of said Trustee under the provisions hereof, shall constitute and be designated as the "trust estate". The legal title to said property shall be vested in said Trustee, except as hereinafter provided, and no legal interest in and to said property shall be vested in either of said Beneficiaries, and their and each of their rights hereunder are personal, consisting only of the right to enforce due performance of the terms and conditions hereof to be performed by the other parties hereto. The Beneficiaries have not and shall not have any right or power to apply for or secure the dissolution or termination of this Trust Agreement or the partition or division of any of the Trust property in any manner except as provided for herein.

IV

The First Beneficial Interest under this Trust is vested in:

ROBERT E. OVERTREE and FERN W. OVERTREE, his wife, as joint tenants and not as tenants in common, with full right of survivorship,

The Second Beneficial Interest under this Trust is vested in:

GILLES DeFLON and SIGNE DeFLON, his wife, as joint owners, with full right of survivorship, and not as tenants in common, as to an undivided one-half interest, and in HOWARD W. HUNTER and CLARA J. HUNTER, his wife, as joint owners, with full right of survivorship, and not as tenants in common, as to an undivided one-half interest.

ALL monies coming into the hands of Trustee for disbursement to the Beneficiaries shall be paid to them in accordance with the beneficial interests set forth above.

V

A. The First Beneficiaries agree to sell and the Second Beneficiaries agree to purchase the entire beneficial interest in and to the Trust Estate hereinbefore described for a total purchase price of TWO HUNDRED FIFTY-NINE THOUSAND, THREE HUNDRED SEVENTY-FIVE DOLLARS, which the Second Beneficiaries agree to pay to the Trustee herein for the benefit of the First Beneficiaries as follows:

- (1) \$75,375.00 to be paid to the Trustee upon the execution of this trust. The balance of \$184,000.00 to be paid as follows:
- (2) In ten (10) annual installments of \$18,400.00, or more, on or before the 2nd day of every June until paid in full, beginning June 2, 1962, together with interest at the rate of five (5%) per cent per annum on all unpaid principal commencing the 1st day of March, 1962, payable annually and in addition to the payment of principal and due on the 1st day of March of each and every year.

B. The parties hereto acknowledge the fact that the subject property is being purchased on a certain Contract of Sale by the First Beneficiaries from Swan Land & Livestock Company, a corporation. This contract is and shall remain the obligation of the First Beneficiaries. It is further acknowledged by the parties hereto that said property is subject to certain mortgages executed by Swan Land & Livestock Company as are shown on the attached title report. Swan Land & Livestock Company has executed assignments of its payments under said contract to said mortgagees and said mortgagees have submitted to the Trustee hereunder agreements in writing to execute partial releases of said mortgages upon payment to them of the assigned funds and in accordance with the schedule of release set forth in said contract between Swan Land & Livestock Company and the First Beneficiaries. The First Beneficiaries hereby covenant and agree with the Second Beneficiaries that they will cause said contract to be paid in accordance with the terms thereof from the amounts to be paid to the Trustee under this Trust Agreement, and the Trustee agrees and covenants that it will make the payments under said contract and assignments, between the First Beneficiaries and Swan Land & Livestock Company according to the terms thereof from the payments to be made hereunder by the Second Beneficiaries, provided at all times said Second Beneficiaries make the payments hereinabove provided for in the amounts and at the times specified. The unpaid principal balance due under said contract between the First Beneficiaries and Swan Land & Livestock Company is \$191,000.00, payable in twelve (12) annual installments as follows:

\$10,000.00 plus interest on or before August 30, 1961 and \$12,000.00 plus interest on or before November 28, 1961 and each and every year until the 28th day of November, 1972, at which time the entire balance of the principal owing on said Contract shall have been paid in full. Interest shall be at the rate of five per cent (5%) per annum on all unpaid principal, payable on the 1st day of March of each and every year beginning March 1, 1962.

Until such time as the First Beneficiaries furnish Trustee and Second Beneficiaries with satisfactory evidence of full payment of said contract and conveyances of title from said Swan Land & Livestock Company to the Trustee, free and clear of the mortgages listed on the attached report of Title, Security Title Company, as Trustee, shall, from all monies received hereunder from the Second Beneficiaries for the benefit of the First Beneficiaries, disburse said monies as follows:

- (1) All monies paid by Second Beneficiaries representing principal and interest in excess of the payments due the underlying Contract representing regular annual payments and release of acreage payments in favor of Swan Land & Livestock Company shall be disbursed to the First Beneficiaries until the balance of said underlying Contract equals the unpaid balance due the First Beneficiaries herein and at that time all monies shall be disbursed to the payment in full of the underlying contract. The Trustee shall at all times retain in its possession from the amounts paid by the Second Beneficiaries under this Trust Agreement, an amount sufficient so that including such amount and including future payments to be made under this agreement by the Second Beneficiaries the Trustee will have available sufficient funds to pay in full all payments due under the contract between First Beneficiaries and Swan Land & Livestock Company in the amounts and at the time provided in said contract between Swan Land & Livestock Company and the First Beneficiaries.
- (2) It is further agreed by and between the parties hereto that no additional payments of either principal or interest may be paid by the Second Beneficiaries during the remainder of the year 1961.

VI

All taxes and assessments levied and assessed upon and against said property for the year 1960, and for all prior years thereto, shall be paid by First Beneficiary, and the taxes and assessments levied and assessed upon and against said property for the year 1961 shall be pro-rated between First Beneficiary and Second Beneficiary as of the 15th day of June, 1961, on the basis of the taxes and assessments levied and assessed upon and against said property for the year 1960. All subsequent taxes and assessments levied and assessed upon and against said property shall be paid by Second Beneficiary.

In the event Second Beneficiary shall fail to pay before delinquent any such taxes, charges and assessments, First Beneficiary shall have the right to pay the same and any payments so made by First Beneficiary shall be prima facie evidence of the necessity therefor, and the amounts so paid shall be secured hereby and shall be repaid to First Beneficiary by Second Beneficiary on demand, together with interest thereon at the rate of eight per cent (8%) per annum from the date first paid by First Beneficiary until repaid. In the event said Trustee shall receive notice in writing from First Beneficiary of any such payments, said Trustee shall not convey said property, or any part thereof, unless and until the repayment thereof, with interest thereon shall have been made.

VII

Second Beneficiary shall not, prior to payment in full of the purchase price herein provided for, allow any lien or any other claim of any kind or nature whatsoever to be imposed upon or against said property which shall affect any portion of said property not theretofore released from any claim or interest of First Beneficiary as provided for herein.

VIII

Second Beneficiary, when not in default hereunder, shall be entitled to receive a Special Warranty Deed from the Trustee conveying and releasing ~~all or parts of~~ <sup>full sections</sup> of said property, or multiples thereof, upon payment by Second Beneficiary to the Trustee for the account of First Beneficiary as follows:

full sections

1. With respect to the regular scheduled payments set forth in paragraph numbered V above, one (1) ~~40 gross~~ <sup>full section</sup> ~~xxxxxx~~ for each sum of \$ 6,880.00 applied upon the principal balance due after the payment of all accrued interest to date of said payment, ~~except as to~~ <sup>and after the first two annual</sup> ~~and after the first two annual~~ payments representing principal and interest for the year 1962 and 1963.
2. At any other time one (1) ~~40 gross~~ <sup>full section</sup> ~~xxxxxx~~ for the sum of \$ 6,880.00, said sum to apply upon the principal balance of the purchase price, together with interest payable in addition thereto on the entire unpaid principal balance and at the same time. Interest shall cease on all amounts applied to principal as of the date of payment thereof. Each amount so paid for the conveyance of said tract shall apply to the principal balance and interest due and shall be cumulative toward future payments due under the terms of paragraph numbered V above.
3. Second Beneficiary shall not be entitled to the conveyance of any acreage in consideration of the down payment made at the inception of this agreement. All tracts of land conveyed in accordance with the terms hereof shall contain 640 acres or multiples thereof. The Trustee in determining the gross-acre content of said tracts shall consider each sectional description to be a part of a section containing a full 640 acres and to contain therefore its full prorata share thereof. The term "gross-acre" as used herein shall mean all of the acreage contained in any part or parcel of said land including any areas within the boundaries of roads, streets, pipe lines, transmission lines or any other rights of way. Upon the payment of said release and conveyance price, the First Beneficiary shall thereafter have no further right, title, interest or claim in, to or under said lands so conveyed.
4. Sections or said part of a section as described on Page 1 hereof shall be released in the following order:

TOWNSHIP 9 NORTH, RANGE 7 WEST, SALT LAKE MERIDIAN

Section 29: All;

Section 30: All;

Section 21: All;

TOWNSHIP 9 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 25: All;

TOWNSHIP 9 NORTH, RANGE 7 WEST, SALT LAKE MERIDIAN

Section 28: All;

Section 19: All;

Section 28: All;

Section 19: All;

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TOWNSHIP 9 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 23: All, (Fractional);

Section 11: All;

Section 13: All;

Section 15: All, (Fractional);

Section 1 : All;

Section 3 : All;

Section 9 : All, (Fractional);

TOWNSHIP 10 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 33: All;

Section 35: All;

Section 29: All, (Fractional);

TOWNSHIP 9 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 5: All, (Fractional);

TOWNSHIP 10 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 15: All, (Fractional);

Section 21: All, (Fractional);

Section 27: All;

Section 11: All;

Section 14: All;

Section 10: All, (Fractional);

TOWNSHIP 10 NORTH, RANGE 7 WEST, SALT LAKE MERIDIAN

Section 6: The North half;

TOWNSHIP 10 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 1: All;

Section 3: All, (Fractional);

Section 12: The North half;

TOWNSHIP 9 NORTH, RANGE 7 WEST, SALT LAKE MERIDIAN

Section 5: All;

Section 6: All;

Section 7: All;

Section 8: All;

Section 16: All;

Section 17: All;

Section 18: All;

TOWNSHIP 10 NORTH, RANGE 7 WEST, SALT LAKE MERIDIAN

Section 7: All;

Section 19: All;

Section 20: The West half of the West half; and  
the West half of the East half of the West half;

Section 29: The West half;

Section 30: All;

Section 31: All;

Section 32: All;

TOWNSHIP 10 NORTH, RANGE 8 WEST, SALT LAKE MERIDIAN

Section 13: All;

Section 23: All;

Section 25: All;

Section 26: All;

Upon full payment of the amount due hereunder the Trustee shall execute to the Second Beneficiaries assignments of all grazing rights on the leased lands subject to this agreement.

SECTION 101.01 OF THE CONSTITUTION OF THE STATE OF TEXAS

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IX  
in accordance with Schedule of releases hereinabove

Second Beneficiary, when not in default hereunder, shall have the right to instruct the Trustee to sell said Trust property, or any part or parcel thereof, in tracts of not less than ~~10 acres each~~ for cash, or partly for cash and the balance of said purchase price on a deferred payment basis, provided, however, that until the purchase price for said part or parcel has been paid in full by Second Beneficiary to the Trustee for the account of First Beneficiary, such sales shall comply with and be subject to the following requirements:

1. All payments shall be made to and disbursed by the Trustee.
2. The deferred payments shall be:
  - (A) In an amount sufficient to pay the principal and interest due and owing to First Beneficiary together with any and all expenses, commissions and costs involved in said sale.
  - (B) In an amount sufficient to pay the release price due First Beneficiary under the provisions hereof.
  - (C) For a term which will not exceed the anticipated date of the last payment to First Beneficiary hereunder.
3. Any amounts in excess of the requisite payments for the benefit of or to the First Beneficiary may be disbursed by the Trustee to Second Beneficiary, provided, however, that the unpaid balance shall never be permitted to be less than the amount necessary to secure a conveyance and release of the property involved. All other monies received shall be held for the account of or disbursed by the Trustee to First Beneficiary.
4. Any such deferred payment sales agreements shall be binding upon First Beneficiary even though Second Beneficiary may subsequently be in default as hereinafter set forth.
5. Upon completion of all payments and performance of all of the terms and conditions of such agreement, the Trustee shall execute and deliver a Special Warranty Deed to the Vendee thereunder conveying the title to said tract free and clear of all liens, encumbrances and claims of both First Beneficiary and Second Beneficiary under the provisions hereof.



In the event Second Beneficiary shall fail to comply with the terms hereof or fail to make any payment or payments when the same shall become due then the First Beneficiary shall have, at its option, the right to serve written notice upon Second Beneficiary to remedy the default within -30- days after service of such notice and should the Second Beneficiary fail to do so, then, and in that event, all right, title and interest of Second Beneficiary shall terminate without further notice, all monies theretofore paid by Second Beneficiary shall be retained by First Beneficiary as rent and liquidated damages and Second Beneficiary agrees that First Beneficiary may re-enter and take possession of said property with or without legal process together with all improvements or additions made by the Second Beneficiary thereon, which improvements and additions shall remain with the land and become the property of First Beneficiary, Second Beneficiary becoming at once a tenant at will of First Beneficiary, and in the event that possession of said property is not delivered to First Beneficiary upon demand, Second Beneficiary shall be subject to all statutory actions for unlawful detainer. In the event Second Beneficiary does not make any payment or payments due on the date specified herein, the Trustee shall, within Ten (10) days thereof, notify First Beneficiary of such non payment in order that First Beneficiary may serve the aforementioned -30- days notice. The interest of Second Beneficiary hereunder shall be deemed terminated only when written notice thereof, after expiration of said -30- day period, has been filed with the Trustee by the First Beneficiary.

However, it is expressly understood and agreed by the parties hereto that in the event Second Beneficiary has, prior to default and termination, re-sold a part or portion of said property under a deferred payment sales agreement, all as provided for in paragraph numbered IX above, all such agreements shall be binding upon the First Beneficiary and remain in good standing, and all payments thereunder to be paid to Second Beneficiary shall be forfeited to and retained by the Trustee for the benefit of and disbursement to First Beneficiary and all rights of Second Beneficiary thereto and thereunder shall likewise cease and terminate, and all such lands shall be held by the Trustee for the benefit of First Beneficiary free and clear of any right, title, lien or claim of Second Beneficiary. After such termination, the Trustee shall upon written demand of First Beneficiary, and after payment to Trustee of all costs, fees and expenses, convey to First Beneficiary all property not theretofore deeded to Second Beneficiary or the successors in interest of Second Beneficiary and not theretofore encumbered by any deferred payment sales agreement by Second Beneficiary. All such property vested in Trustee and subject to said deferred payment sales agreement shall remain in Trust subject to the terms and provisions of this agreement and said deferred payment sales agreements, and Trustee shall continue to act as such until said agreements are paid in full and the property deeded to the respective Vendees, or the Vendees therein have defaulted according to the terms thereof in which event the Trustee shall upon written demand of First Beneficiary, and after payment to Trustee of all cost, fees and expenses, convey such property to First Beneficiary. Trustee shall have a first lien on the Trust Estate in its possession for all costs, fees, expenses and advances incurred or expended by said Trustee in the administration of this Trust. In addition and in the event of such default and termination, Second Beneficiary shall and hereby agrees, if so requested by Trustee, to execute and deliver to Trustee a Quit Claim Deed conveying to Trustee all of its right, title and interest in and to that portion of said property not theretofore deeded to Second Beneficiary or its successors in interest.

## XI

It is covenanted and agreed by the First Beneficiary that its sole remedy against the Second Beneficiary, in the event of default, is, the right to terminate this agreement in the manner hereinbefore provided, excepting that First Beneficiary has a right of action against Second Beneficiary for unpaid interest due and payable as of the date of such termination, and a right of action against Second Beneficiary for the amount of any unpaid taxes or other assessments as of the date of such termination.

## XII

As between First Beneficiary and Second Beneficiary, it is agreed that should they default in any of the covenants or agreements contained herein, that the defaulting party shall pay all costs and expenses, including a reasonable attorney's fee which may arise or accrue from enforcing this agreement as provided for herein.

## XIII

The Beneficiaries jointly and severally agree that they will fully pay, indemnify and protect, save and hold harmless the Trustee of and from any and all suits, claims, demands, judgments, costs or expenses, including attorney's fees and other obligations and liabilities of whatever nature that the Trustee may for any reason or at any time suffer, sustain, incur or expend by reason of or in connection with this Trust or the administration thereof otherwise than through its own misconduct or neglect. Said Beneficiaries further agree that the Trustee shall not be required to pay or attend to the payment of any claim, lien or encumbrance, including but not limited to taxes, income, inheritance or estate taxes, or special assessments against the Trust property unless instructed so to do and proceeds are received and made available for such payment, shall not be required to attend to any assessment or valuation of the property but all such services shall be performed and all expenses borne by the Beneficiaries or their representatives.

The parties hereto further agree that the Trustee shall not be required to commence or defend any suit in connection with this Trust or the Trust property unless and until there shall have been paid to the Trustee a sum of money sufficient in its judgment to pay all costs incurred or to be incurred in relation thereto including attorney's fees and a reasonable compensation to the Trustee for its services and the time of its officers and employees spent in connection therewith.

As between First Beneficiary and Second Beneficiary, it is agreed that all of the obligations of the Beneficiaries in this Section set forth are the obligations of Second Beneficiary; provided, however, that the Trustee may look to both of said Beneficiaries or any property or funds in its hands for the compliance therewith and to indemnify it and hold it harmless on account of failure to make any payment to or to do any act that is hereinbefore set forth.

## XIV

~~Unless otherwise agreed by and between the parties hereto, any and all sales, leases or other disposition of said Trust property, or any part thereof, shall be consummated through an escrow established with SECURITY TITLE COMPANY, or its duly authorized representative, as Escrow Agent.~~

~~An Owner's or Purchaser's Policy of Title Insurance, in the form thereof then in use, shall be issued by or through Security Title Company upon any conveyance or contract of sale of said Trust property or any part thereof, and a Mortgagee's Policy of Title Insurance, in the form thereof then in use shall be issued by or through Security Title Company upon any Mortgage given upon the Trust property or any part thereof in relation to the sale or conveyance of said Trust property or any part thereof.~~

## XV

~~All funds arising out of and coming into the hands of SECURITY TITLE COMPANY, as Trustee in relation to any lease, sale or other disposition of said Trust property, or any part thereof, shall be by said SECURITY TITLE COMPANY, as such Trustee, applied or disbursed as follows:~~

~~First, to the payment of escrow fees, title charges, real estate commission, internal revenue stamps, taxes and other assessments, pro-rations, and all other expenses and costs incurred in relation to such lease or sale.~~

~~Second, to the payment of costs, charges, expenses, advances, and damages, if any, to said Trustee, as provided for herein.~~

~~Third, to Second Beneficiary, but not more frequently than monthly, all monies received by virtue of time sales, down payment, interest and principal payments, until such time as the deferred balance due Second Beneficiary is equal to the amount due upon principal and interest to First Beneficiary by Second Beneficiary for said parcel conveyed. Said balance then due shall be paid to First Beneficiary until First Beneficiary has been paid in full.~~

~~All disbursements may be made by the check of the Trustee.~~

## XVI

It is herein agreed by and between the parties hereto that possession of the property shall be delivered to the Second Beneficiary upon the execution of this Trust, and he shall be entitled to keep possession thereof so long as he keeps and performs the covenants and conditions herein contained on his part to be kept and performed.

## XVII

No person dealing with the Trustee shall be obligated to ascertain whether or not the Trustee has exceeded its powers in any act it may perform or cause to be performed incident to or in connection with the management, control, sale, disposal or otherwise handling said property or any part or parcel thereof, nor to see to the proper handling, application, or disbursement by the Trustee of any funds paid to the Trustee.

## XVIII

All instruments affecting any property included in this Trust shall be executed solely by SECURITY TITLE COMPANY, Trustee; provided, however, that the Trustee in its discretion may refrain from executing any such instruments and at its option may cause or permit such instrument to be executed by some other person or corporation.

The Trustee shall not be obligated to warrant Title to any property sold or conveyed by it except as against its own acts. Any sales, Agreements, or Deeds executed by the Trustee shall be made subject to any taxes, assessments, liabilities or obligations against the said property.

## XIX

The accounting records of the Trustee shall at all reasonable times be open for inspection by the parties interested in this Trust only. The beneficiaries shall be entitled to periodic statements from the Trustee showing all the receipts and disbursements and charges made in connection with this Trust.

## XX

No assignment or transfer of any interest of any party hereunder at any time shall be valid and binding upon the Trustee until an executed original of the assignment or other instrument evidencing the transfer has been filed with and accepted by the Trustee and the Trustee's assignment fee paid therefor, excepting only where such interest may pass or be transferred by decree or order of Court and then only upon satisfactory proof of the regularity and validity of the proceedings in such matter being presented to the Trustee.

## XXI

This Trust shall be exempt from the provisions and operations of the Uniform Principal and Income Act of Utah.

This Trust shall terminate upon conveyance of all of the property by the Trustee in accordance with the provisions hereof, and the distribution of all of the funds in the hands of the Trustee to the person or persons entitled thereto in accordance with the terms hereof. In the event said property has not been conveyed by the Trustee within one year after the time specified in paragraph V for the last payment due to First Beneficiary the Trustee may, as soon thereafter as practicable and upon payment of all of its fees, costs, charges and damages for which it may become liable, convey the property to the Second Beneficiary if the Second Beneficiary shall have paid the purchase price in full and any other amounts due and owing to First Beneficiary. In the event said purchase price and any other amounts due and owing to First Beneficiary shall not have been paid prior to said date, the Trustee shall have the right to institute an action in a Court of competent jurisdiction to determine the rights of the respective Beneficiaries and to convey the property in accordance with the decree entered in said action when said decree shall become final and the statutory time for appeal thereon has expired. In the event of any such action being brought by the Trustee, the Trustee shall have a first and prior lien against the said property for its attorney's fees and all costs and reasonable payment for the time of its officers and employees in connection therewith.

## XXII

It is agreed that time is the essence of this agreement.

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XXVIII

Wherever the context hereof so requires, words used in the masculine gender shall include the feminine and neuter; the singular number shall include the plural, and the plural the singular; the word person shall include a corporation, company, partnership, or association, or society, as well as a natural person.

XXIX

Any of the terms in the Escrow Instructions or any other contract agreement, or writing heretofore executed by the parties hereto in relation to the Trust Estate in conflict with the provisions hereof shall be deemed to be modified and amended to conform to the provisions hereof.

It is agreed by and between the parties hereto that in the event the Trustee determines that it is no longer able and willing to act as Trustee hereunder, the Trustee may designate a substitute Trustee to assume the duties and obligations of this Trust instrument, provided that such substitute Trustee shall be a qualified trust company. Said substitute Trustee shall be such as to be able to operate according to the terms hereof, and thereafter the Security Title Company shall be relieved of all further duties, responsibilities and liabilities except such liabilities as accrue prior to the date of the transfer of said trust.

~~longer able or willing to further act as Trustee hereunder, the Trustee may designate a substitute trustee to assume the duties and obligations of this Trust Instrument. Said Trustee shall be such as to be able to operate according to the terms hereof, and thereafter the Security Title Company, Trustee, shall be relieved of all further duties, responsibilities and liabilities under this Trust Agreement.~~

The provisions hereof shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed, or caused to be executed, and delivered this Agreement the day, month and year first above written.

FIRST BENEFICIARY

MAILING ADDRESSES

Robert E. Overtree  
Robert E. Overtree  
Fern W. Overtree  
Fern W. Overtree

233 Rees, Playa del Rey, California

APPROVED FOR FIRST BENEFICIARY:

By: \_\_\_\_\_

SECOND BENEFICIARY

MAILING ADDRESSES

Billie De Hon  
Regina De Hon  
Howard W. Hunter  
Clara J. Hunter

APPROVED FOR SECOND BENEFICIARY:

By: \_\_\_\_\_

ACCEPTED BY:

MAILING ADDRESS:

SECURITY TITLE COMPANY, TRUSTEE

45 East Fourth South  
Salt Lake City, Utah

By: Robert L. McCulliff et al.  
By: N. Gayle Nielson

STATE OF California )  
COUNTY OF Los Angeles ) ss:

On the 17th day of June, A.D., 1961,  
personally appeared before me

**ROBERT E. OVERTREE and FERN W. OVERTREE**

the signer of the within instrument who duly acknowledged to me that he executed the same.

Robert Horton Quinn  
Residing at: La Angeles  
My Commission Expires August 22, 1962

California )  
STATE OF UTAH )  
: ss:  
COUNTY OF Los Angeles

On the 16<sup>th</sup> day of June, A.D., 19 61  
personally appeared before me

Gilles DeFlon, Signe DeFlon, Howard W. Hunter and Clara J. Hunter

the signers of the within instrument who duly acknowledged to me that they executed the same.

*[Signature]*  
Residing at: Los Angeles, California  
My Commission Expires: October 1, 1963

STATE OF UTAH )  
: ss:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_  
personally appeared before me  
and

who being by me duly sworn did say, each for himself, that he, the said \_\_\_\_\_  
is the \_\_\_\_\_, and he, the said \_\_\_\_\_  
is the \_\_\_\_\_ of \_\_\_\_\_  
and that the within and foregoing instrument was signed in behalf of said  
corporation by authority of a resolution of its Board of Directors, and said \_\_\_\_\_  
and \_\_\_\_\_ each duly  
acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF UTAH )  
: ss:  
COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_  
personally appeared before me  
and

who being by me duly sworn did say, each for himself, that he, the said \_\_\_\_\_  
is the \_\_\_\_\_, and he, the said \_\_\_\_\_  
is the \_\_\_\_\_ of \_\_\_\_\_  
and that the within and foregoing instrument was signed in behalf of said  
corporation by authority of a resolution of its Board of Directors, and said \_\_\_\_\_  
and \_\_\_\_\_ each duly  
acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Notary Public  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF UTAH )  
: ss:  
COUNTY OF SALT LAKE )

On the 22nd day of June, A.D., 1961  
personally appeared before me ROBERT C. McAULIFFE  
N. GAYLE NIELSON

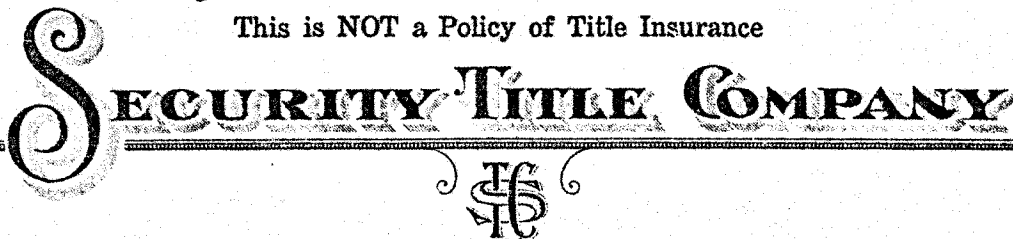
for himself, that he, the said ROBERT C. McAULIFFE is the  
Vice-President, and he, the said N. GAYLE NIELSON is the Vice-President  
Secretary of SECURITY TITLE COMPANY and that the within and foregoing instrument was signed in behalf of  
said corporation by authority of a resolution of its Board of Directors, and said ROBERT C. McAULIFFE  
and N. GAYLE NIELSON  
each duly ecknowledged to me that said corporation executed the same and that the seal affixed is the seal of  
said corporation.

*[Signature]*  
Notary Public Salt Lake City, Utah  
Residing at: \_\_\_\_\_  
My Commission Expires: Dec. 10, 1963

12a 5/61

BOOK 321 PAGE 212  
PRELIMINARY TITLE REPORT

This is NOT a Policy of Title Insurance



AGENT FOR LOUISVILLE TITLE INSURANCE COMPANY  
PHONE EMPIRE 3-5841  
45 EAST FOURTH SOUTH  
SALT LAKE CITY 11, UTAH

Mr. Calvin L. Rampton, Attorney  
723 Continental Bank Building  
Salt Lake City, Utah

Dear Sir:

Please refer to Order No. O-4495-BE  
(Amended)

SECURITY TITLE COMPANY, hereby CERTIFIES:

SCHEDULE A

That on the 5th day of June, 1961, at 8:00 A.M. the title to the land described in Schedule C hereof was vested in fee simple in:

SWAN LAND AND LIVESTOCK COMPANY,  
a Corporation of the State of Utah

subject only to the defects, objections, liens and encumbrances shown in Schedule B hereof.

That upon legal and valid vesting of the interest to be insured, and providing no liens, encumbrances, or objections intervene between the aforesaid date and the date the instrument creating the estate or interest to be insured is filed for record, we will issue a Policy of Title Insurance through the Louisville Title Insurance Company on its usual Owner's form, showing under Schedule B thereof only such liens, encumbrances and objections as appear in Schedule B hereof which are not satisfied or removed prior to issuance of said Policy.

This Report is delivered and accepted upon the understanding that you have no personal knowledge or intimation of any defect, objection, lien or encumbrance affecting said premises other than those shown under Schedule B hereof, and your failure to disclose any such personal information shall render this Report and any policy issued based thereon, null and void as to such defect, objection, lien or encumbrance.

This Report is preliminary to the issuance of a policy of title insurance and shall become null and void, unless a policy of title insurance is issued, and the premium therefor paid, within sixty days from the date hereof. In the event the sale of the property is not completed or loan is not made, this order may be cancelled with Company's consent by paying for services rendered in connection herewith.

IN WITNESS WHEREOF the said Company has caused these presents to be signed by its duly authorized officer this 9th day of June, 1961.

SECURITY TITLE COMPANY

*Robert C. McQuiff*

BOOK 321 PAGE 213  
SCHEDULE B

PART ONE. This part of Schedule B refers to matters which, if any such exist, may affect the title to said land, but which are not shown in this report:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary line, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
6. Proceedings for municipal improvement, which, at the date hereof, are shown by the official records of any such city, but have not resulted in imposition of a lien upon, or establishment of an easement over, or adjudication of the right to a public use of said land or any part thereof.

PART TWO: This part of Schedule B shows liens, encumbrances, defects and other matters affecting the title to said land or to which said title is subject:

1. Taxes for the year 1961 now a lien, not yet due or payable. (Total amount of 1960 taxes paid \$1,389.39).
2. Reservations, conditions and restrictions as contained in the <sup>P</sup>atents from the United States of America and the State of Utah conveying said property.
3. A Mortgage dated February 7, 1953, executed by Swan Land and Livestock Company, a Corporation organized and existing under the laws of the State of Utah; Thornley K. Swan and Dorothy P. Swan, husband and wife; J. W. Swan and Elizabeth Swan, his wife; Norma T. Swan, a widow; and Norma Swan Davis; given to secure payment of a note in the amount of \$110,000.00, with interest thereon, payable as therein provided, in favor of THE CONNECTICUT MUTUAL LIFE INSURANCE COMPANY, a Corporation, recorded June 16, 1953 as Entry No. 30550g in Book 83, page 104 and by a Supplemental Mortgage dated September 23, 1957 and recorded October 11, 1957 in Book 112, page 513.
4. A Mortgage dated December 12, 1953, executed by Swan Land and Livestock Company, a Utah Corporation; Swan Brothers, a Co-partnership consisting of Thornley K. Swan and J. W. Swan; Thornley K. Swan and Dorothy P. Swan, his wife; J. W. Swan and Elizabeth H. Swan, his wife, given to secure payment of a note in the amount of \$78,026.35, with interest thereon, payable as therein provided, in favor of PRODUCERS LIVESTOCK LOAN COMPANY, a Utah Corporation, recorded February 2, 1954 in Book 86, page 488.
5. A Mortgage dated February 8, 1954, executed by Swan Land and Livestock Company, a Utah Corporation, given to secure a note in the amount of \$49,420.00, with interest thereon, payable as therein provided, in favor of THE UNITED STATES OF AMERICA, ACTING THROUGH THE ADMINISTRATOR OF THE FARMERS HOME ADMINISTRATION, recorded February 9, 1954 as Entry No. 33769g in Book 86, page 582.  
  
Said Mortgage was assigned to FEDERAL INTERMEDIATE CREDIT BANK OF BERKELEY by Assignment dated December 15, 1953 and recorded February 2, 1954 in Book 86, page 492.
6. A Mortgage dated December 22, 1954 executed by Swan Land and Livestock Company, a Corporation organized and existing under the laws of the State of Utah, given to secure a note in the amount of \$40,000.00, with interest thereon, payable as therein provided, in favor of THE UNITED STATES OF AMERICA, ACTING THROUGH THE ADMINISTRATOR OF THE FARMERS HOME ADMINISTRATION, recorded December 23, 1954 as Entry No. 38705g in Book 93, page 260.

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7. A Mortgage dated August 24, 1957, executed by Swan Land and Livestock Company a Utah Corporation; Swan Brothers, a C<sub>o</sub>-partnership, consisting of Thornley K. Swan and J. W. Swan; Thornley K. Swan and Dorothy P. Swan, his wife; J. W. Swan and Elizabeth H. Swan, his wife, given to secure three promissory notes in the total amount of \$124,128.50., with interest thereon, payable as therein provided, in favor of PRODUCERS LIVESTOCK LOAN COMPANY, a Utah Corporation, recorded October 14, 1957 as Entry No. 53177g in Book 112, page 566.

Said Mortgage was assigned to FEDERAL INTERMEDIATE CREDIT BANK OF BERKELEY, by Assignment dated November 12, 1957 and recorded November 13, 1957 in Book 113, page 330.

8. A Mortgage dated August 26, 1957 executed by Swan Land and Livestock Company, a Corporation organized and existing under the laws of the State of Utah, given to secure payment of five promissory notes in the total amount of \$85,870.00, with interest thereon, payable as therein provided, in favor of THE UNITED STATES OF AMERICA, ACTING THROUGH THE FARMERS HOME ADMINISTRATION, UNITED STATES DEPARTMENT OF AGRICULTURE, recorded October 14, 1957 as Entry No. 53178g in Book 112, page 569.
9. Any title or claim of interest of the United States of America, the State of Utah, or claimant thereunder, based upon the charge that the hereinafter described land was known to be mineral in character on the date the survey thereof was approved by the Surveyor General. (Affects Section 16, Township 9 North, Range 7 West; all of Fractional Section 32, Township 9 North, Range 7 West; and all of Section 32, Township 10 North, Range 7 West).
10. The right of ingress and egress over, across and upon said land for the purpose of removing any and all such oil, gas and minerals and together with such other rights as have been reserved by previous owner or owners of said land, as contained in Patent from the United States of America to Matt S. Browning, Trustee, Bar B. Company, recorded in Book 104, page 215; in Warranty Deed in Book 107, page 445; in Bargain and Sell Deed in Book 112, page 511; in Deed in Book 83, page 165 of records; in Deed in Book 113, page 152; and Deed in Book 145, page 622.

(The records do not disclose any other easements or rights of way reserved by any previous owners other than minerals and the rights to remove the same).

11. A Uniform Real Estate Contract dated November 28, 1960 by and between Swan Land & Livestock Company, as Seller and Robert E. Overtree, as Purchaser, covering the land herein described and other property, as disclosed by a Notice of Interest dated April 12, 1961 and recorded May 16, 1961 as Entry No. 76306g in Book 147, page 426.

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SCHEDULE C

15d 5, 61

The land referred to in this report is situated in the  
County of Box Elder, State of Utah, and is described as follows:

| <u>TOWNSHIP AND RANGE</u>      | <u>PORTION OF SECTION</u>   | <u>ACRES</u> |
|--------------------------------|---|--------------|
| T9N, R7W                       | Section 5: All;   | 640.00       |
|                                | Section 6: All;   | 640.48       |
|                                | Section 7: All;   | 640.00       |
|                                | Section 8: All;   | 640.00       |
|                                | Section 16: All;  | 640.00       |
|                                | Section 17: All;  | 640.00       |
|                                | Section 18: All;  | 640.72       |
|                                | Section 19: All;  | 640.00       |
|                                | Section 21: All;  | 640.00       |
|                                | Section 28: All;  | 640.00       |
|                                | Section 29: All;  | 640.00       |
| Section 30: All;               | 640.19  |              |
| T9N, R8W                       | Section 1: All;   | 640.00       |
|                                | Section 3: All;   | 640.00       |
|                                | Section 5: All, (Fractional);   | 26.36        |
|                                | Section 9: All, (Fractional);   | 118.35       |
|                                | Section 11: All;  | 640.00       |
|                                | Section 13: All;  | 640.00       |
|                                | Section 15: All, (Fractional);  | 257.00       |
|                                | Section 23: All, (Fractional);  | 565.66       |
| Section 25: All, (Fractional); | 634.38  |              |
| T10N, R7W                      | Section 6: N $\frac{1}{2}$ ;  | 320.12       |
|                                | Section 7: All;   | 640.00       |
|                                | Section 19: All;  | 639.68       |
|                                | Section 20: W $\frac{1}{2}$ W $\frac{1}{2}$ ; W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$ ; | 240.00       |
|                                | Section 29: W $\frac{1}{2}$ ;   | 320.00       |
|                                | Section 30: All;  | 640.00       |
|                                | Section 31: All;  | 640.00       |
|                                | Section 32: All;  | 640.00       |
| T10N, R8W                      | Section 1: All;   | 709.00       |
|                                | Section 3: All, (Fractional);   | 102.25       |
|                                | Section 10: All, (Fractional);  | 209.87       |
|                                | Section 11: All;  | 640.00       |
|                                | Section 12: N $\frac{1}{2}$ ;   | 320.00       |
|                                | Section 13: All;  | 640.00       |
|                                | Section 14: All;  | 640.00       |
|                                | Section 15: All, (Fractional);  | 635.07       |
|                                | Section 21: All, (Fractional);  | 613.88       |
|                                | Section 23: All;  | 640.00       |
| Section 25: All;               | 640.00  |              |
| T10N, R8W,                     | Section 26: All;  | 640.00       |
|                                | Section 27: All;  | 640.00       |
|                                | Section 29: All, (Fractional);  | 227.00       |
|                                | Section 33: All;  | 640.00       |
|                                | Section 35: All;  | 640.00       |

EXCEPTING THEREFROM all oil, gas and minerals from said property, and other minerals and/or substances of any kind or nature that may be found in, on, or under said lands, together with the rights of ingress and egress over, upon and across said lands for the purpose of removing all such oil, gas and minerals.

RCMc: mt

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