Book 2009 Page 3460

Document 2009 3460 Type 04 001 Pages 5
Date 9/02/2009 Time 9:43:33AM
Rec Amt $29.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

Larissa Holub Tri-County Bank & Trust, P.O. Box 309 Monticello, Iowa 52310, (319)465-6173

Return Address: Tri-County Bank & Trust, P.O. Box 309, Monticello, IA 52310

DEED OF TRUST

THIS INDENTURE, made and executed this 7th day of August, 2009, by and between, Eric A. Wahl and Janine S. Wahl, Husband & Wife of the City of Monticello, County of Delaware and State of Iowa, "Borrowers", and Tri-County Bank & Trust Co., a corporation organized under the laws of the State of Iowa, with its principal office and place of business at Cascade, Dubuque County, Iowa, "Lender".

2000-889

WITNESSETH

That Borrowers for and in consideration of the indebtedness to the Lender and of the trust hereinafter created, and in further consideration of the sum of One dollar ($1.00) and other valuable consideration to them in hand paid by the Lender receipt whereof is hereby acknowledged, do by these presents grant, bargain, sell, and convey unto Lender, its successors and assigns forever, the certain real estate and appurtenances thereunto belonging, situated in the County of Delaware and State of Iowa, to-wit:

The South One-half of the Northeast Quarter (S ½ NE ¼) and the Northeast Quarter of the Southeast Quarter (NE ¼ SE ¼), EXCEPT that portion of Parcel A located in SE ¼ - Section 33, Township 87 North, Range 3 West, Delaware County, Iowa, recorded in Plat Book 2000, Page 670, all in Section Thirty Three (33); and also the West Quarter of the Northwest Quarter of the Southwest Quarter (W ¼ NW ¼ SW ¼) in Section Thirty-Four (34); all in Township Eighty Seven (87) North, Range Three (3) West of the Fifth Principal Meridian, except the railroad right of way through said premises, and subject also to the rights of the Iowa Electric Company AND a parcel of land located in the Southeast Quarter (SE ¼) of Section 33, Township 87, North, Range 3, West of the 5th P.M. being more particularly described as: Commencing at the Southwest Corner of the Northeast Quarter (NE ¼) of the Southeast Quarter (SE ¼) of Section 33, Township 87, North, Range 3, West of the 5th P.M., thence North from said point 450 feet more or less to the point of intersection with the said C.M. St. P. Ry. Right of Way; thence Southwesterly along said right of way to a point due West of the point of commencement; thence East 200 feet more or less to the point of beginning.

Containing 120 acres, more or less.

and also all of the rents, issues, use and profits of said land and the crops raised thereon, from date hereof until the debt secured thereby shall be paid in full, the intention being to convey hereby an absolute title in fee to the property hereinabove described, including every contingent right therein.

TO HAVE AND TO HOLD the said real estate with all appurtenances thereto belonging unto the second party, its successors and assigns, forever. First parties hereby covenant for themselves, their executors, administrators and assigns, that they have full right, power and authority to convey said real estate and its appurtenances, and that they will warrant and defend the title thereto unto second party, its successors and assigns, against the claims of all persons whomsoever lawfully claiming the same. The first parties hereby relinquish all their contingent rights, including dower and homestead, which they have in and to said described real estate.

Provided always, that this conveyance is made in trust for the following uses and purposes:

To secure the performance of the agreements herein and the payment to second party, its successors or assigns, of all notes, obligations and liabilities now or hereafter owing by first parties to second party, and on which note or notes, obligations, and liabilities first parties, either jointly or severally, is or are maker, endorser, surety or guarantor. The intention of first parties hereby is to cover and secure payment to second party of any indebtedness now or hereafter owing by first parties, to secure payment of any extensions or renewals of any such indebtedness or any part thereof, and also to secure payment of all amounts paid by second party in the performance of any action required to be taken by the first parties or the exercise of any right or remedy of the second party under this Deed of Trust. When all such notes, obligations and liabilities and any renewals or extensions thereof shall be fully paid, together with interest thereon, then these presents shall be void, otherwise they shall be and remain in full force and effect.

Borrowers hereby agree to pay all taxes and assessments, general or special, upon or against any of the real estate hereinabove described, or any part thereof, before such taxes or special assessments become delinquent. First parties also agree to keep all of the said property and the buildings thereon insured against loss or damage by fire with extended coverage during the existence of this Deed of Trust, in at least the insurable value of the buildings in insurance companies approved by second party, its successors or assigns, with such insurance payable to first parties and second parties as their interest appear. First parties also hereby agree to deliver such insurance policies to second party as further security for the payment of the obligations herein secured. First parties also agree that in the event of loss or damage of any such property by any property of the hazards insured against, that the proceeds of such insurance, at the option of the second party, its successors or assigns, shall be paid to and received by second party, its successors or assigns, and applied toward payment of the obligations secured by this Deed of Trust.

Any condemnation award for injury to, or taking of, any part or all of said property is hereby assigned to second party with authority at second party's option, to apply any part thereof to the indebtedness secured hereby whether due or not, to restore the premises, or release the monies received.

It is expressly agreed that the entire indebtedness secured hereunder shall become due and payable immediately upon any sale or conveyance of the premises or any part thereof without the prior written consent of the second party to the sale or conveyance, unless otherwise prohibited by federal law.

Borrowers agree to keep the buildings and other improvements now or hereafter erected on the premises in good condition and repair and to permit second party to enter at all reasonable times for the purpose of inspecting the premises.

Borrowers will not, now or in the future, mortgage, pledge, or encumber or place any lien or encumber (or permit same to exist) on the premises, or any part thereof without the prior written consent of the second party.

Without effecting the liability of Borrowers or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for the performance of any obligation contained herein, and without affecting the rights of Second Party with respect to any security not expressly released in writing, Second Party may, at any time and from time to time, either before or after the maturity of any note, agreement, obligation or indebtedness hereby secured, and without notice or consent: (a) release any person liable for payment of all or any part of the indebtedness or for performance of any obligation; (b) make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof; (c) exercise or refrain from exercising or waive any right Second Party may have; (d) accept additional security of any kind; and (e) release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property mortgaged hereby.

In the event of the nonpayment of any of the said notes, obligations and liabilities in accordance with their terms at maturity, whether such maturity be by acceleration or otherwise, or in the event of the failure of first parties to keep and perform any of the conditions, stipulations and covenants herein contained, that then the whole amount of principal and interest secured by this Deed of Trust and then unpaid shall become due and payable absolutely, at the option of the second party, its successors and assigns, and without notice to first parties, suit may be brought for the collection thereof, and for the foreclosure of this Deed of Trust. It is further agreed that second party, its successor or assigns, may, if it so elect, pay any delinquent taxes, general or special, against the above described property or any part thereof, and insurance premiums, and any other obligations of the first parties reasonably necessary to protect the security of the second party hereunder; and that any monies so expended shall become part of the obligations secured hereby in addition to the other notes and obligations secured hereby and shall draw interest at the highest legal contract rate from date of such actual advancement by second party until repayment thereof to second party.

Borrowers shall not allow the premises to be used by anyone to transport or store goods the possession, transportation, or use of which, is illegal.

Borrowers hereby agree that in the event legal proceedings by foreclosure or otherwise are instituted to collect any of the notes or obligations or liabilities hereby secured, or in the event of the collection of any such notes or obligations by any attorney at law, that a reasonable attorney's fee and also the reasonable cost and expense of an abstract of title and title search be allowed and added to the debt secured hereby and become a lien upon all of the property hereinabove described. First parties agree to pay such attorney's fees, abstract expense and title search expense, and such attorney's fees and expenses shall be taxed as part of the costs in any judgment or decree rendered in such proceedings. If the holder of this Deed of Trust at any time becomes involved in any legal, equitable or other proceedings involving any of the security hereinbefore mentioned, or involving the proceeds of any of such security, first parties hereby agree to pay the reasonable expenses, including attorney's fee of the holder by reason thereof, and this Deed of Trust shall stand as security for all such sums.

It is further agreed that in the event of the foreclosure of this Deed of Trust and sale of the property by sheriff's sale, the second party shall have the right to reduce the period of redemption to the shortest period allowed by statute, including specifically Sections 628.26, 628.27, and 628.28 of the 1989 Code of Iowa, and any amendments or substitutions thereto.

It is hereby further agreed that in the case of default in any respect in the strict performance of any of the covenants, agreements or conditions of this Deed of Trust, that the second party, its successor or assigns, either before or on commencement of any action to foreclose this Deed of Trust, or at any time thereafter, shall be entitled to the appointment of a receiver who shall have the power to take and hold possession of the hereinabove described real estate, and rent the same and collect the rents and profits therefrom, and such rights shall in no event be barred, forfeited or retarded by reason of a judgment, decree or sale in foreclosure and the right to have such receiver appointed on application of second party, or its successor or assigns, shall exist during the statutory period of redemption, regardless of the solvency or insolvency of the first parties and regardless of the value of the aforesaid premises or the waste, loss or destruction of the rents and profits of said premises.

Borrowers represent, warrant and covenant to Second Party neither First Parties nor, to the best of their knowledge, any other party has used, generated, released, discharged, stored, or disposed of any hazard waste, toxic substance or related material (cumulatively "Hazardous Materials") in connection with the property or transported any Hazardous Materials to or from the property. First Parties shall not commit or permit such actions to be taken in the future. The term,"Hazardous Materials" shall mean any substance, material, or waste which is or becomes regulated by any governmental authority including, but not limited to, (i) petroleum; (ii) friable or nonfriable asbestos; (iii) polychlorinated biphenyls; (iv) those substances, materials or wastes designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act or listed pursuant to Section 307 of the Clean Water Act or any amendments or replacements to these statutes; (v) those substances, materials or wastes defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act or any amendments or replacements to that statute; or (vi) those substances, materials or wastes defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, or any amendments or replacements to that statute or any other similar statute, rule, regulation or ordinance now or hereafter in effect. To the best of First Parties' knowledge, there are no agricultural drainage wells, abandoned wells, solid waste disposal sites or underground storage tanks on the property.

Borrowers hereby appoint Second Party as its agent or attorney-in-fact to endorse First Parties' names on all instruments and other documents pertaining to the obligations secured hereunder. In addition Second Party shall be entitled, but not required, to perform any action or execute any document required to be taken or executed by First Parties under this Deed of Trust. Second Party's performance of such action or execution of such documents shall not relieve First Parties from any obligation or cure any default under this Deed of Trust. The powers of attorney described in this paragraph are coupled with an interest and are irrevocable.

It is hereby further agreed and understood that in case the first parties default hereunder in any respect, that the second party, its successor or assigns, is authorized at its option to take immediate possession of the aforesaid real estate, or any part thereof, and to rent the said real estate and shall be liable to account to the first parties only for the net profits thereof. And it is further agreed that the taking of possession of such property by second party, its successors or assigns, as provided above shall in no manner prevent or retard the collection of the notes or obligations hereunder payable, by foreclosure or otherwise. And second party, its successors and assigns, hereby is authorized to hold or to continue such possession until the said real estate is sold and if redemption of any of the property is permitted by law, then until such property has been redeemed, or until the time for redemption has expired.

In case the title to any of the property covered by this Deed of Trust is attacked, first parties hereby authorize second party to employ an attorney and contest the claim and first parties hereby agree that the reasonable attorney's fee of such attorney shall be allowed and added to the debt secured hereby, and shall become a lien upon the property covered by this Deed of Trust, and that such fees and expenses so expended shall become a part of the principal secured hereby, in addition to the notes, liabilities and obligations secured hereby, and shall draw interest at the rate of the highest legal rate per annum.

Each of the Borrowers hereby relinquishes all rights of dower, homestead, distributive share and exemption in and to said premises.

I understand that homestead property is in many cases protected from the claims of creditors and exempt from judicial sale; and that by signing this contract, I voluntarily give up my right to this protection for this property with respect to claims based upon this contract.

Eric A. Wahl — Mortgagor — Date 8/7/09

Janine S. Wahl — Mortgagor — Date 8/7/09

IN WITNESS WHEREOF, first parties have signed this instrument at Monticello, Iowa, on the date first above written. **First parties acknowledge receipt of a copy of this Deed of Trust.**

Eric A. Wahl

Janine S. Wahl

STATE OF IOWA
COUNTY OF JONES} SS.

On this 7th day of August A.D. 2009, before me, a Notary Public in and for the State of Iowa, personally appeared Eric A. Wahl and Janine S. Wahl to me known to be the persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for the
State of Iowa

PATRICK J. RECKER
Commission Number 190185
My Commission Expires
3-19-09