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*Carol Givens*

Carol Givens

Register of Deeds  
DODGE COUNTY, NE

Filed:

December 17, 2013 1:37:00 PM

Fee \$40.00

Do not write/type above this line. For filing purposes only.

FORM 5011 (1-2013)

RETURN TO Farm Credit Services of America, 4865 Old Monastery Road Gdowski, Deb A  
PREPARER: Columbus, NE 68601 (402) 564-2778

Farm Credit Services of America

**TRUST DEED AND ASSIGNMENT OF RENTS****Trustor(s):**

Virgil F. Wagner, Trustee for Virgil F. Wagner Revocable Trust Dated December 20, 1993

**Mailing Address:**2411 E 16th St  
Fremont, NE 68025

This Trust Deed and Assignment of Rents is made December 13, 2013, by and among the above named Trustor(s) and AgriBank, FCB, "Trustee," whose mailing address is PO Box 64949, St. Paul, Minnesota 55164-0940, and Farm Credit Services of America, FLCA, "Beneficiary," whose mailing address is PO Box 2409, Omaha, NE 68103, in consideration of the advance by Beneficiary of the principal sum specified below, the receipt of which is hereby acknowledged, Trustor(s) irrevocably transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, its successors and assigns, under and subject to the terms and conditions of this Trust Deed, the property, located in Dodge County(ies), State of Nebraska, and described as follows:

**SEE ATTACHED EXHIBIT 'A' FOR LEGAL DESCRIPTIONS**

together with all Trustor's right, title, and interest in the property, now or hereafter acquired, including: all buildings, fixtures, timber, timber to be cut, crops, and improvements now on or hereafter placed upon the property; all appurtenances, water, water rights, irrigation, and drainage rights; all rents, issues, uses, income, profits, and rights to possession; all oil, gas, gravel, rock, or other minerals of whatever nature, including geothermal resources; all personal property that may integrally belong to or hereafter become an integral part of the real estate whether attached or detached, including any appurtenances and accoutrements of any structure or residence secured hereby; easements and other rights and interests now or at any time hereafter belonging to or in any way pertaining to the property, whether or not specifically described herein; all above and below ground irrigation equipment and accessories; and all leases, permits, licenses, or privileges, appurtenant or nonappurtenant to the property, now or hereafter issued, extended or renewed by Trustor(s), any State, the United States, or any department, bureau, instrumentality, or agency thereof. The foregoing is collectively referred to in this document as the "property."

It is understood and agreed between Trustor(s) and Beneficiary that this Trust Deed is given to secure the repayments in full of the following described obligations, regardless of whether Mortgagor(s) is(are)

liable thereon, and all future and additional loans or advances, protective or otherwise, which may be made by Beneficiary, at its option, at the request of, and to or for the account of Trustor(s), the parties liable under the note(s) or credit agreement(s), or any of them, for any purpose, plus interest thereon, all payable according to the terms of the note(s), credit agreement(s), or other instrument(s) modifying the same.

**Date of Note(s) or Credit Agreement(s)**  
12/13/2013

**Principal Amount**  
\$418,250.00

Provided, however, that the total principal indebtedness outstanding and secured hereby at any one time will not exceed the sum of FOUR HUNDRED EIGHTEEN THOUSAND TWO HUNDRED FIFTY, (\$418,250.00), exclusive of interest and protective advances authorized herein or in the loan agreement(s); provided further, that THIS PARAGRAPH SHALL NOT CONSTITUTE A COMMITMENT TO MAKE FURTHER OR ADDITIONAL ADVANCES IN ANY AMOUNT AT ANY TIME, WHETHER OR NOT THE TOTAL PRINCIPAL INDEBTEDNESS ABOVE HAS BEEN ADVANCED.

This Trust Deed will be due January 1, 2029.

Trustor(s) hereby warrants that Trustor(s) holds fee simple title to the above described property, that Trustor(s) has good and lawful authority to deed and encumber the same, that the property is free and clear of all liens and encumbrances, except encumbrances of record, and that Trustor(s) will warrant and defend the property, at Trustor(s) expense, against all claimants whomsoever. Trustor(s) also hereby waives and relinquishes all rights of dower, homestead, distributive share, and exemption in and to the above described property.

**Trustor(s) and each of them further covenants and agrees with, or certifies to, Beneficiary as follows:**

1. To pay all liens, judgments, or other assessments against the property, and to pay when due all assessments, taxes, rents, fees, or charges upon the property or under any lease, permit, license, or privilege assigned to Beneficiary as additional security to this Trust Deed, including those in or on public domain.
2. To insure and keep insured buildings and other improvements including fixtures and attachments now on or hereafter placed on the property to the satisfaction of Beneficiary. Such insurance will be endorsed with a loss payable clause to Beneficiary. On demand, Trustor will furnish said policies or proof of insurance to Beneficiary. Any sums so received by Beneficiary may be used to pay for reconstruction of the destroyed improvements or if not so applied may be applied, at the option of Beneficiary, in payment of any indebtedness matured or unmatured secured by this Trust Deed. Such insurance will be in an amount at least equal to the lesser of the loan balance, the actual cash value of the collateral, or the replacement cost of the property, and will at a minimum, cover losses caused by fire, lightning, explosion, riot, aircraft, vehicles, vandalism, civil commotion, smoke, windstorm, and hail. Trustor(s) will obtain and keep flood insurance in force to cover losses by flood as required by Beneficiary and by the National Flood Insurance Act of 1968, as amended, and by regulations implementing the same. Trustor(s) further agree that Beneficiary is not and will not be liable for any failure by Trustor(s) or by any insurer, for whatever reason, to obtain and keep this insurance in force.
3. To keep all buildings, fixtures, attachments, and other improvements now on or hereafter placed on the property occupied and in good repair, maintenance, and condition and to neither commit nor permit any acts of waste or any impairment of the value of the property. Beneficiary may enter upon the property to inspect the same or to perform any acts authorized herein or in the credit agreement(s).
4. In the event Trustor(s) fails to pay any liens, judgments, assessments, taxes, rents, fees, or charges or maintain any insurance on the property, buildings, fixtures, attachments, or improvements as provided herein or in the loan agreement(s), Beneficiary, at its option, may make such payments or provide insurance, maintenance, or repairs and any amounts paid therefor will become part of the principal indebtedness secured hereby, be immediately due and payable and bear interest at the

default rate provided in the note(s) or credit agreement(s) from the date of payment until paid. The advancement by Beneficiary of any such amounts will in no manner limit the right of Beneficiary to declare Trustor(s) in default or exercise any of Beneficiary's other rights and remedies.

5. In the event Beneficiary is a party to any litigation affecting the property or the lien of this Trust Deed, including any action by Beneficiary to enforce this Trust Deed or any suit in which Beneficiary is named a defendant (including condemnation and bankruptcy proceedings) Beneficiary may incur expenses and advance payments for abstract fees, attorneys fees (to the extent allowed by law), costs, expenses, appraisal fees, and other charges and any amounts so advanced will become part of the principal indebtedness secured hereby, be immediately due and payable and bear interest at the default rate provided in the note(s) or credit agreement(s) from the date of advance until paid.

6. Any awards made to Trustor(s) or their successors by the exercise of eminent domain are hereby assigned to Beneficiary; and Beneficiary is hereby authorized to collect and apply the same in payment of any indebtedness, mature or unmatured, secured by this Trust Deed.

7. In the event of default in the payment when due of any sums secured hereby (principal, interest, advancements, or protective advances), or failure to perform or observe any covenants and conditions contained herein, in the note(s), credit agreement(s), or any other instruments, or any proceedings is brought under any Bankruptcy laws, Beneficiary, at its option, may declare the entire indebtedness secured hereby to be immediately due and payable and the whole will bear interest at the default rate as provided in the note(s) or credit agreement(s) and Beneficiary may immediately authorize Trustee to exercise the Power of Sale granted herein in the manner provided in the Nebraska Trust Deeds Act, or, at the option of the Beneficiary, may foreclose the Trust Deed in the manner provided by law for the foreclosure of mortgages on real property, including the appointment of a Receiver upon ex parte application, notice being hereby expressly waived, without regard to the value of the property or the sufficiency thereof to discharge the indebtedness secured hereby or in the loan agreement(s). Delay by Beneficiary in exercising its rights upon default will not be construed as a waiver thereof and any act of Beneficiary waiving any specified default will not be construed as a waiver of any future default. If the proceeds under such sale or foreclosure are insufficient to pay the total indebtedness secured hereby, Trustor(s) do hereby agree to be personally bound to pay the unpaid balance, and Beneficiary will be entitled to a deficiency judgment.

8. Should Beneficiary elect to exercise the Power of Sale granted herein, Beneficiary will notify Trustee who will record, publish, and deliver to Trustor(s) such Notice of Default and Notice of Sale as then required by law and will in the manner provided by law, sell the property at the time and place of sale fixed in the Notice of Sale, either as a whole or in separate lots, parcels, or items and in such order as Trustee will deem expedient. Any person may bid at the sale including Trustor(s), Trustee, or Beneficiary.

9. Trustor(s) hereby requests a copy of any Notice of Default or Notice of Sale hereunder to be mailed by certified mail to Trustor(s) at the address(es) set forth herein.

10. Upon default, Beneficiary, either in person or by agent, with or without bringing any action or proceeding and with or without regard to the value of the property or the sufficiency thereof to discharge the indebtedness secured hereby, is authorized and entitled to enter upon and take possession of the property in its own name or in the name of the Trustee and do any acts or expend any sums it deems necessary or desirable to protect or preserve the value of the property or any interest therein, or increase the income therefrom; and with or without taking possession of the property is authorized to sue for or otherwise collect the rents, issues, crops, profits, and income thereof, including those past due and unpaid, and apply the same upon any indebtedness secured hereby or in the loan agreement(s).

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 will be cumulative, will be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and may be exercised concurrently, independently or successively.

11. Trustor(s) acknowledges that the duties and obligations of Trustee will be determined solely by the express provisions of this Trust Deed or the Nebraska Trust Deeds Act and Trustee will not be liable except for the performance of such duties and obligations as are specifically set forth therein, and no implied covenants or obligations will be imposed upon Trustee; Trustee will not be liable for any action by it in good faith and reasonably believed by it to be authorized or within the discretion or rights of powers conferred upon it by this Trust Deed or state law.

12. The integrity and responsibility of Trustor(s) constitutes a part of the consideration for the obligations secured hereby. Should Trustor(s) sell, transfer, or convey the property described herein,

without prior written consent of Beneficiary, Beneficiary, at its option, may declare the entire indebtedness immediately due and payable and may proceed in the enforcement of its rights as on any other default.

13. That Trustor(s) is, and shall continue to be, duly organized, validly existing and legally qualified to do business under the laws of the states in which Trustor(s) operates, in compliance with federal, state and local laws or regulations, and has legal authority in such states to conduct Trustor(s) business operations and to own agricultural real estate. No change has been made in the name, ownership, control, relationship, legal status or organizational and formation documents of any undersigned Trustor(s) since the time any such information was last provided to Beneficiary.

14. That if Trustor(s), or anyone signing this Trust Deed, is a limited liability company, that those signing on behalf of said limited liability company constitute a majority of the managers or members thereof, and that the execution of this Trust Deed is in the ordinary course of the limited liability company's business and has been authorized by its members.

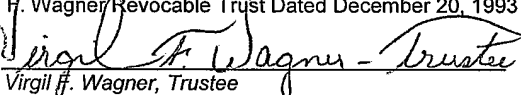
15. Assignment of Rents including Proceeds of Mineral Leases. Trustor(s) hereby assigns, transfers, and conveys to Beneficiary all rents, royalties, bonuses, and delay moneys or other proceeds that may from time to time become due and payable under any real estate lease or under any oil, gas, gravel, rock, or other mineral lease of any kind including geothermal resources now existing or that may hereafter come into existence, covering the property or any part thereof. All such sums so received by Beneficiary will be applied to the indebtedness secured hereby; or Beneficiary, at its option, may turn over and deliver to Trustor(s) or their successors in interest, any or all of such sums without prejudice to any of Beneficiary's rights to take and retain future sums, and without prejudice to any of its other rights under this Trust Deed. This assignment will be construed to be a provision for the payment or reduction of the debt, subject to the Beneficiary's option as hereinbefore provided, independent of the lien on the property. Upon payment in full of the debt and the reconveyance of this Trust Deed of record, this assignment will become inoperative and of no further force and effect.

16. This Trust Deed constitutes a Security Agreement with respect to all the property described herein.

17. The covenants contained in this Trust Deed will be deemed to be severable; in the event that any portion of this Trust Deed is determined to be void or unenforceable, that determination will not affect the validity of the remaining portions of the Trust Deed.

Virgil F. Wagner Revocable Trust Dated December 20, 1993

By

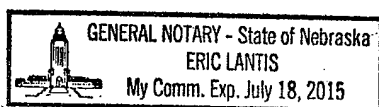
  
Virgil F. Wagner, Trustee

TRUSTEE ACKNOWLEDGMENT

STATE OF NEBRASKA )  
COUNTY OF SAUNDERS )ss

On this 13th day of December, 2013 before me, a Notary Public, personally appeared  
Virgil F. Wagner Trustee(s) for Virgil F. Wagner Revocable Trust  
Dated December 20, 1993

to me known to be the person(s) named in and who executed the foregoing instrument, and  
acknowledged that he executed the same as his voluntary act and deed as such Trustee(s) for the  
purposes therein mentioned.



(SEAL)

A handwritten signature in dark ink, appearing to be "Eric Lantis", written over a horizontal line.

(Type name under signature)

My commission expires 7/18/15 Notary Public in and for said County and State

EXHIBIT 'A'

That South Half of the Southeast Quarter, Section 10, Township 19 North, Range 7 East of the 6th P.M.,  
Dodge County, Nebraska  
EXCEPT

a tract of land 80 feet wide lying over and across the Southwest Quarter of the Southeast Quarter of Section 10, Township 19 North, East of the 6th P.M., Dodge County, Nebraska, included between lines drawn 50 feet and 130 feet respectively, Southwesterly from and parallel to the centerline of the Chicago and Northwestern Railway track, as said track is now constructed and in operation over and across said Southwest Quarter of the Southeast Quarter of said Section 10;

AND ALSO EXCEPT

a tract of land located in the South Half of the Southeast Quarter of Section 10, Township 19, North, Range 7 East of the 6th P.M., Dodge County, Nebraska, described as follows:

referring to the South Quarter Corner of said Section 10; thence Northerly on the West line of the South Half of the Southeast Quarter of said Section 10 a distance of 159.4 feet to the point of beginning; thence continuing Northerly on said West line a distance of 102.2 feet to a point on the Southerly right of way line of the Chicago and Northwestern Railway Company; thence Southeasterly  $118^{\circ}18'$  right on said Southerly railroad right-of-way line a distance of 574.8 feet to a point on the South line of said South Half of the Southeast Quarter; thence Westerly on said South line a distance of 197.8 feet; thence Northwesterly  $27^{\circ}04'$  right a distance of 350.03 feet to the point of beginning, previously occupied as a public highway, being the additional acreage hereby secured,

AND ALSO EXCEPT

a tract of land located in Tax Lot 2 in the Southwest Quarter of the Southeast Quarter of Section 10, Township 19 North, Range 7 East of the 6th P.M., Dodge County, Nebraska, described as follows:

Beginning at the Southwest Corner of said Southwest Quarter of the Southeast Quarter; thence Northerly along the West line of said Southwest Quarter of the Southeast Quarter a distance of 47.214 meters (154.90 feet) to a point on the South right of way line of U.S. Highway No. 275; thence Southeasterly deflecting  $117^{\circ}22'41''$  right along the South right of way line of said U.S. Highway No. 275 a distance of 105.845 meters (347.26 feet) to a point on the South line of said Southwest Quarter of the Southeast Quarter; thence Westerly deflecting  $153^{\circ}30'43''$  right along the South line of said Southwest Quarter of the Southeast Quarter a distance of 94.001 meters (308.30 feet) to the point of beginning;

AND ALSO EXCEPT

a tract of land located in Tax Lot 1 in the Southwest Quarter of the Southeast Quarter of Section 10, Township 19 North, Range 7 East of the 6th P.M., Dodge County, Nebraska described as follows:

Referring to the Southwest Corner of said Southwest Quarter of the Southeast Quarter thence Northerly along the West line of said Southwest Quarter of the Southeast Quarter a distance of 112.983 meters (370.68 feet) to a point on the North right of way line of U.S. Highway No. 275, said point also being the point of beginning; thence Northerly deflecting  $00^{\circ}00'00''$  right a distance of 17.741 meters (58.21 feet) to a point; thence southeasterly deflecting  $117^{\circ}40'00''$  right a distance of 290.127 meters (951.86 feet) to a point on the South line of said Southwest Quarter of the Southeast Quarter; thence Westerly deflecting  $153^{\circ}13'22''$  right along the South line of said Southwest Quarter of the Southeast Quarter a distance of 36.502 meters (119.76 feet) to a point on the North right of way line of said U.S. Highway; thence Northwesterly deflecting  $26^{\circ}56'43''$  right along the North right of way line of U.S. Highway a distance of 249.303 meters (817.92 feet) to the point of beginning.

The Northeast Quarter of the Northeast Quarter of Section 25, Township 19 North, Range 7 East of the 6th P.M., in Dodge County, Nebraska