

Account No. 55045

RED NOTE AB

#347354

347354

WEBER BASIN WATER \$30.00 Fee
91 SEP 20 AM 10:27 Paid

ALAN SPRIGGS
SUMMIT COUNTY RECORDER

ASSIGNMENT

REC'D BY

Dg NC

THIS ASSIGNMENT, made this 11 day of July, 1991,
by and between Silver Springs Water Co., as
First Party, and Park West Management Co., Inc., as
Second Party,

WITNESSETH

1. WHEREAS, under date of July 27, 1978, Partnership Investments of Colorado, Inc., as Purchaser, entered into a contract with Weber Basin Water Conservancy District for the purchase of 2,000 acre-feet of water for replacement purposes, which contract was thereafter recorded in the office of the County Recorder of Summit County, Utah, in Book M119 of Records, Pages 795-806, and

2. WHEREAS, under date of August 4, 1981, the said Partnership Investments of Colorado, Inc., assigned its interest in said contract to Silver Springs Water Company, a Utah partnership, as First Party, which assignment was thereafter recorded in the office of the Summit County Recorder in Book M-200 at Pages 806-812, and

3. WHEREAS, First Party now desires to assign and transfer to Second Party, a portion of First Party's entitlement to water under the contract referred to in Paragraph 1 above,

NOW, THEREFORE, it is hereby agreed between First Party and Second Party as follows:

800. 625 PAGE 417 - 431

4. FIRST PARTY hereby assigns and transfers to Second Party, all of First Party's right, title and interest in and to 150 acre-feet of water referred to in Paragraph 1 above,

5. SECOND PARTY, in consideration of such assignment, hereby agrees with First Party, and with Weber Basin Water Conservancy District, to pay to Weber Basin Water Conservancy District, promptly upon receipt of billings from Weber Basin Water Conservancy District, an annual amount to consist of the total of the following items:

(a) \$15.00 per acre-foot of water, being a total of \$2,250.00 to apply on the District's obligation under the repayment contract No. 14-06-400-33 between the United States and the District, as it has been or may be amended and supplemented.

(b) An amount not to exceed \$5.00 annually as determined by the District to pay the District's special costs and expenses in administering this allotment.

(c) An amount equal to the assessments imposed by the State Engineer for the distribution of the water replaced hereunder.

(d) A fair proportionate amount of estimated operating and maintenance charges of the District for the then calendar year. Such fair proportionate amount shall be determined each year by the Board of Directors of the District and the determination shall be final and conclusive. If such estimate is more or less than the

actual cost thereof, an appropriate adjustment will be made in the annual amount for the year following the year for which the estimate was made.

6. The first annual payment under items (a) and (b) above shall be made to Weber Basin Water Conservancy District upon such District's initial billing to Second Party therefor. Subsequent annual payments shall be paid as billed, whether or not any part of the water is called for or used.

7. SECOND PARTY further agrees to comply strictly with all of the terms and conditions of the contract referred to in Paragraph 1 above, and proposes to use the water referred to in said contract, and herein, on the following described lands in Summit County, Utah:

See Exhibit "A" hereto.

8. All parties agree that this agreement shall become operative only upon its approval by Weber Basin Water Conservancy District.

9. Weber Basin Water Conservancy District may, as a condition of this Assignment, require security to be pledged and committed by the Second Party in addition to that so required in the contract referred to in paragraph 1 above in order to insure payments so required in said contract. The sufficiency and form of security shall be determined by the Weber Basin Water Conservancy District.

10. Second Party (assignee) hereby agrees to commit to Weber Basin Water Conservancy District sufficient security as determined by the Weber Basin Water Conservancy District and to supply whatever documentation is so required by Weber Basin Water Conservancy District prior to this Assignment becoming effective wherein such commitment and documentation shall be a condition precedent to this Assignment.

FIRST PARTY: SILVER SPRINGS WATER COMPANY,
A UTAH PARTNERSHIP

By:
Its:

ADDRESS:

J. M. See Treas
4575 N. Silver Springs Rd.
Park City, UT 84060

ATTEST:

By: See p. 5
Title: _____

SECOND PARTY:

Park West Management Co., Inc.

By:
Its:

ADDRESS:

*J. E. Roberts
Pres.
150 N. Virginia
St., UT 84103*

ATTEST:

By: See p. 5
Title: _____

APPROVED: August 30, 1991

WEBER BASIN WATER CONSERVANCY DISTRICT

President

Charles F. Black

ATTEST:

Ivan W. Flint
Secretary

Ivan W. Flint
(SEAL)

ATTESTATIONS

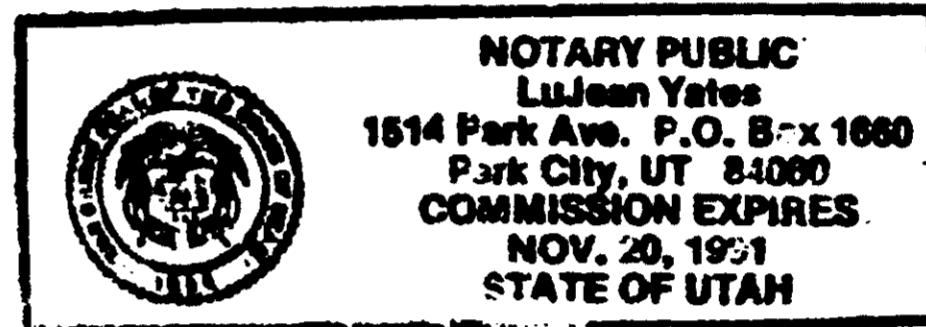
FIRST PARTY

STATE OF UTAH)
COUNTY OF Summit :ss

On this 15 day of July, 1991, personally appeared before me Lynn Stevens who being by me duly sworn, did say that they are the Secretary/Treasurer of Silver Springs Water Company, and that the foregoing instrument was signed on behalf of said company, and said Lynn Stevens acknowledged to me that said company executed the same.

(SEAL)

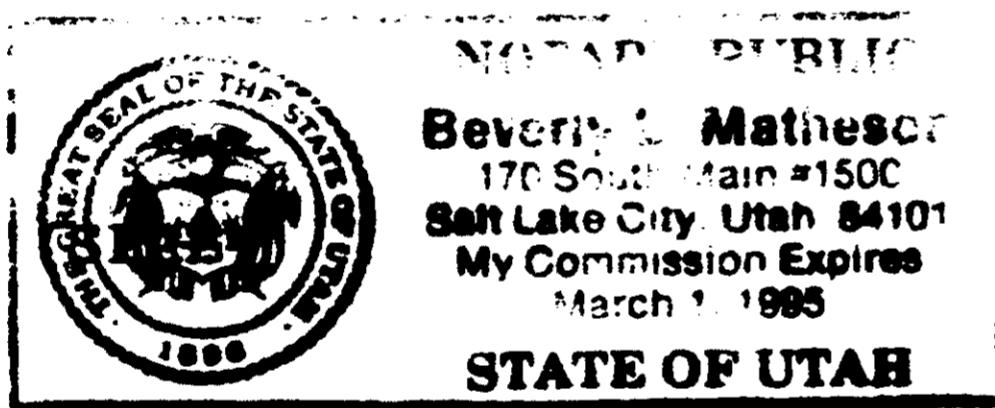
Lillian Yates
Notary Public
Residing at Park City, Utah
My Com. Exp.: 11-20-91



SECOND PARTY

STATE OF UTAH)
COUNTY OF Salt Lake :ss

On the 9 day of July, 1991, personally appeared before me J. E. Roberts the signer(s) of the above instrument, who duly acknowledged to me that he (they) executed the same.



Beverly L. Matheson
Notary Public
Residing at _____
My Com. Exp.: _____

Exhibit "A"

PLACE OF USE

The lands referred to in Section 7 of the Assignment to which this is attached as an exhibit are located in Summit County, Utah, and are more particularly described as follows:

1. Sections 30 and 31, Township 1 South, Range 4 East, SLB&M.
2. Section 36, Township 1 South, Range 3 East, SLB&M.

BOOK 625 PAGE 422

Exhibit "A"

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT made this 9th
day of July, 1991, between Park West,
Management Co., Inc., A Utah Corporation,
Salt Lake City, Utah 84163 (herein called the
"Mortgagor"), and WEBER BASIN WATER CONSERVANCY DISTRICT, 2837
East Highway 193, Layton, Utah 84040 (herein called the
"District").

WITNESSETH:

WHEREAS, the Mortgagor has been assigned interests in that certain Water Purchase Contract hereinafter described, and as a condition for approval by the District of the assignment, based on the policy of the Board of the District, the District has required the pledge by Mortgagor of certain securities; and

WHEREAS, Mortgagor is the owner of the hereinafter described "Mortgaged Property", Exhibit A attached and incorporated hereto, and has agreed to mortgage said property to secure the performance of the obligations under the assigned portion of the Water Purchase Contract, as hereinafter described;

NOW, THEREFORE, for and in consideration of the approval of the above assignment, and to secure all obligations hereinafter described, Mortgagor mortgages to the District all of the hereinafter described property, and to the extent that any of the property, rights and interests hereinafter described are personal property of the kind or character defined in or subject to the applicable provisions of the Utah Uniform Commercial Code, Mortgagor grants to the District a security interest in said property:

(a) that certain real property and those certain easements, rights of way and other interests in real property described in Exhibit A, attached hereto and made a part hereof, and that certain personal property described in Exhibit A;

(b) all improvements now or hereafter placed or erected on the real property described in Exhibit A and all fixtures now or hereafter attached to said lands, all of which, including all appurtenants, replacements or additions thereto, shall be deemed to be and shall remain a part of the Mortgaged Property;

(c) all easements, rights of way, permits and licenses appurtenant to and used in connection with the property described in Exhibit A whether or not described in Exhibit A;

(d) revenues, accounts, receivables, and contract rights resulting from assessments of Mortgagor's shareholders or resulting from or relating to the delivery or sale of water by Mortgagor or resulting from the sale or other disposal of any of the above described property, including the proceeds of any insurance covering the same;

(All of the above described property, rights and interests being hereinafter called the "Mortgaged Property.")

TO HAVE AND TO HOLD the Mortgaged Property unto the District, its successors and assigns forever, to secure all payments due under the portion of that certain Water Purchase Contract entered into the 27th day of July, 1978, between the District and Partnership Investments of Colorado, Inc., assigned to Mortgagor by Assignment dated as of the 11 day of July, 1991, (the assigned portion of said contract being hereinafter called the "Assigned Contract" attached as Exhibit B) including all penalties, late payments and other fees or assessments included therein, and the covenants and obligations of Mortgagor contained in this Mortgage (hereinafter collectively called the "Obligations").

AS ADDITIONAL SECURITY, Mortgagor hereby assigns to the District, during the continuance of this Mortgage, all assessments, proceeds, rents, issues, royalties, and profits of the Mortgaged Property. Until Mortgagor shall default in the payment or performance of any Obligation secured hereby, Mortgagor shall have the right to collect all such assessments, proceeds rents, issues, royalties, and profits earned prior to default as they become due and payable. If Mortgagor shall default as aforesaid, Mortgagor's right to collect any of such moneys shall cease and the District shall have the right, with or without taking possession of the Mortgaged Property, to collect all assessments, rents, royalties, issues, and profits. The District at its option shall have the right to assess any additional costs for such collection. Failure or discontinuance of the District as any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by the District of the right, power, and authority to collect the same.

IN CONSIDERATION of the premises and Obligations hereby secured, Mortgagor hereby covenants and agrees as follows:

ARTICLE I

Representations and Warranties

Mortgagor represents and warrants that:

1. Mortgagor is the lawful owner of the Mortgaged Property, free and clear from prior liens or encumbrances that could have a material adverse effect on the District's security interest in the Mortgaged Property;
2. Mortgagor has full right and authority to grant this Mortgage and to perform the covenants and conditions of this Mortgage, and a certified copy of a resolution authorizing the execution hereof is attached hereto as Exhibit C.
3. Mortgagor will warrant and defend the Mortgaged Property unto the District and its successors and assigns, against every person whomsoever lawfully claiming the same or any part thereof.
4. Mortgagor will warrant they are not subject to the jurisdiction of the Public Service Commission under Title 54.

ARTICLE II

Covenants

Mortgagor covenants and agrees as follows:

1. To pay all Obligations secured hereby, promptly when due whether under any agreement contained herein, extension hereof, or otherwise.
2. To promptly pay when due all taxes, assessments, and governmental charges or levies, imposed upon or attributable to the Mortgaged Property except such taxes as are being contested in good faith by appropriate proceedings diligently prosecuted.
3. To keep the Mortgaged Property in good repair and not commit waste or permit impairment or deterioration of the Subject Property.
4. To promptly pay or cause to be paid all laborers or materialmen for labor and material furnished in connection with the operation, development or maintenance of the Mortgaged Property.
5. To execute and deliver such other and further instruments and do such other and further acts as in the discretion of the District may be necessary or desirable to

carry out more effectively the purposes of this Mortgage, including, without limiting the generality of the foregoing, prompt correction of any defect which may be hereafter discovered in the title to the Mortgaged Property which may have a material adverse effect on the District's security, or in the execution and acknowledgment of this Mortgage or any instrument creating, evidencing or connected with the Obligations secured hereby.

6. To keep the Mortgaged Property insured, with standard insurance companies, against loss or damage by fire and other casualties and risks of the kinds and in the amounts generally carried by similar companies engaged in similar undertakings and to carry such public liability and other insurance coverage as similar companies maintain for their operations.

7. To keep Mortgagor in compliance with all rules and regulations of all applicable governmental entities, including but not limited to water quality testing, monitoring and source protection, complying with all necessary conditions of any exchange applications related to the assigned contract.

ARTICLE III

Events of Default and Remedies of District

1. In the event of (1) default in the payment, when due, of any payment required by the Assigned Contract; or (2) the failure by Mortgagor to cure a default in the performance or observation of any covenant or agreement contained in this instrument within 30 days after the notice of the default by the District; then and in any such event the District shall thereupon have any or all of the following remedies, to-wit:

(a) The District may institute suit of foreclosure of the lien of this indenture in any court or courts having jurisdiction. In any such suit the District may, at its option, apply for and be entitled, as a matter of right, to the appointment of a receiver to take possession and control of, operate, maintain, and preserve the Mortgaged Property or any part thereof to the extent that Mortgagor could have so controlled or operated the facilities for application upon the indebtedness and other sums then due the District hereunder until the costs are fully paid, and said receiver may be authorized to sell and dispose of all or any part of said property under orders of the court appointing him as such.

(b) The District shall have all rights and

remedies granted by law, and particularly by the Uniform Commercial Code, including, but not limited to, the right to take possession of all personal property constituting a part of the Mortgaged Property, and for that purpose the District may enter upon any premises on which any or all of such personal property is situated and take possession of and operate such personal property (or any portion thereof) or remove it therefrom. The District may require the Mortgagor to assemble such personal property and make it available to the District at a place to be designated by the District which is reasonably convenient to all parties. Unless such personal property is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the District will give the Mortgagor reasonable notice of the time and place of any public sale or of the time after which any private sale or other disposition of such personal property is to be made. This requirement of sending reasonable notice will be met if the notice is mailed by first-class mail, postage prepaid, to the Mortgagor at its address shown above at least five (5) days before the time of the sale or disposition.

(c) The District may at any time either in person, by agent, or by a receiver to be appointed by a court (Mortgagor hereby consenting to the appointment of the District as such receiver), and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue for or otherwise collect the assessments, proceeds, rents, issues, and profits herein assigned to the District, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, upon any of the Obligations, and in such order as it may determine.

2. In case of foreclosure, or the undertaking to exercise any other remedy hereunder, Mortgagor hereby agrees to pay all costs of the same, including reasonable attorney's fees, which shall become a part of the indebtedness secured hereby, the District may continue to receive the proceeds of assessments herein assigned or other proceeds from the Mortgaged Property and apply the entire proceeds to the Obligations secured hereby, including interests and penalties until the same are fully paid. The District is authorized to receive such proceeds and to apply the same first to the expense of collection and/or sale, including reasonable attorneys' fees; second to payment of the amount due on the Obligations secured hereby; third the balance, if any, to Mortgagor.

3. Nothing herein contained shall be construed as limiting the District to the collection of any Obligation of Mortgagor to the District only out of the income, revenue, rents, issues and profits from Mortgaged Property (it being expressly understood that such indebtedness shall constitute an absolute, unconditional obligation to pay the amounts therein specified in the Assigned Contract at the due dates.

4. Should Mortgagor fail to pay or cause to be paid as provided, any of the items mentioned in paragraphs 2 to 6 of Article II above, inclusive, or fail to do or cause to be done as provided any of the other things contemplated in said paragraphs, then and in that event, the District although not under any duty or obligation to anyone to do so, may at its option and without notice to Mortgagor in either its own name or that of Mortgagor pay or cause to be paid any such items which may not have been paid, in whole or in part, and do or cause to be done, in any manner and to any extent deemed by it to be expedient or advisable, any such other things which may have been left wholly or partially undone, and all advances, outlays, costs, and expenses made or incurred by District in every such event, including all reasonable attorneys' fees incurred or paid in connection therewith, shall be secured hereby and shall be paid by Mortgagor to District upon demand. The making of any such payment or the doing of any such thing by District or causing the same to be made or done either wholly or partially, shall never impose upon District any duty or obligation to continue to proceed with any such thing or to do the same thing again and shall not be deemed to relieve Mortgagor from the observance or performance of any covenant, warranty, or agreement contained herein or to constitute a waiver of default hereunder or to resort to any of its rights or remedies hereunder and any provision hereof to the contrary notwithstanding District may, in such manner as it may elect, from time to time reimburse itself out of funds collected or received by it hereunder or under any other instrument executed simultaneously herewith, pursuant hereto or in the extension hereof, for any and all outlays and expenditures so made. In no event shall the District be or become liable to anyone for any loss or damage resulting from its exercise of any right, privilege or power conferred upon it by this indenture or any such other instrument or from its attempt or failure to exercise the same, excepting only such loss or damage as may result from its gross negligence or willful misconduct. In no event shall the District be liable for any prior actions of the Mortgagor.

5. No remedy hereby conferred upon or reserved unto the District is intended to be exclusive of any other remedy or remedies, but every such remedy shall be cumulative and in addition to all other remedies now or hereafter existing at law or equity. Any of said remedies may be exercised without any requirement that other or additional remedies against other

security shall be first exhausted. The District shall never be required to foreclose in one action the lien hereof and other liens, if any, upon other security from the indebtedness and other sums secured hereby, but may maintain separate actions upon any such liens without prejudice to any right secured by this or any other liens it may have. The District may resort to any other lien, security, or collateral in such order as it may deem expedient and the Mortgagor and all others now or hereafter bound hereby or obligated on any indebtedness or other sum hereby secured, expressly waives all right of marshalling.

ARTICLE IV

Miscellaneous

1. This instrument shall be construed both as a mortgage covering real property herein described to the extent of Mortgagor's interest and as a chattel mortgage and/or security instrument upon the personal property herein described to the extent of Mortgagor's interest therein. All terms, conditions, covenants, warranties, and agreements contained herein shall be binding upon the personal representatives, successors, and assigns of the Mortgagor and shall be deemed and construed to be covenants running with the estate or interest in the land as herein conveyed and all thereof shall likewise inure to the benefit of the District, its successors and assigns. The invalidity of any provision or provisions hereof shall not in any way affect the remainder of this indenture. This instrument shall be deemed and may be inforced from time to time as a real estate mortgage, chattel mortgage, security instrument or assignment of proceeds or as one or more thereof.

2. The District may, from time to time, release any of the Mortgaged Property from the lien hereof and may likewise release or surrender any other security then held by it as security for the payment of the Obligations secured hereby, and any such release or surrender may be given or made without notice to or the consent of any person having an interest in or lien upon the remaining property hereby mortgaged or anyone else bound hereby, and without affecting either the personal liability or any person for the payment of any such Obligations or other sum or the lien of this indenture upon the remainder of the Mortgaged Property for the full amount of every such indebtedness and other sum.

3. Any notice, request, demand or other instrument which may be required or permitted to be given or served upon the Mortgagor shall be in writing and may be given by mailing such notice by registered or certified mail, return receipt requested, addressed to Mortgagor at the address first herein above set forth or at such other address as Mortgagor may

designate by written notice to the District as provided herein. Any notice, request, demand or other instrument which may be required or permitted to be given or served upon the District shall be in writing and may be given by mailing such notice by registered or certified mail, return receipt requested, addressed to the District at the address first herein above set forth or at such other address as the District may designate by written notice to Mortgagor as provided herein.

4. This Mortgage is binding upon Mortgagor and Mortgagor's successors and assigns, and shall inure to the benefit of the District, its successors and assigns, and the provisions hereof shall be covenants running with the land.

IN WITNESS WHEREOF, the undersigned Mortgagor has caused these presents to be executed and delivered on the day and year first above written.

Parc West Management Co., Inc.
By J. E. Roberts
President

ATTEST:

See Below
Secretary

(SEAL)

ACKNOWLEDGEMENT

STATE OF UTAH)
COUNTY OF Salt Lake) : ss.

On the 9 day of July, 1991, personally
appeared before me J. E. Roberts,
who being by me duly sworn, did say that they are the
President of Park West Management Co. and that said instrument was
signed in behalf of said corporation by authority of a
resolution of its board of directors, and said J. E. Roberts
acknowledge to me that said corporation
executed the same.

Beverly Matheson
Notary Public
Residing at: _____

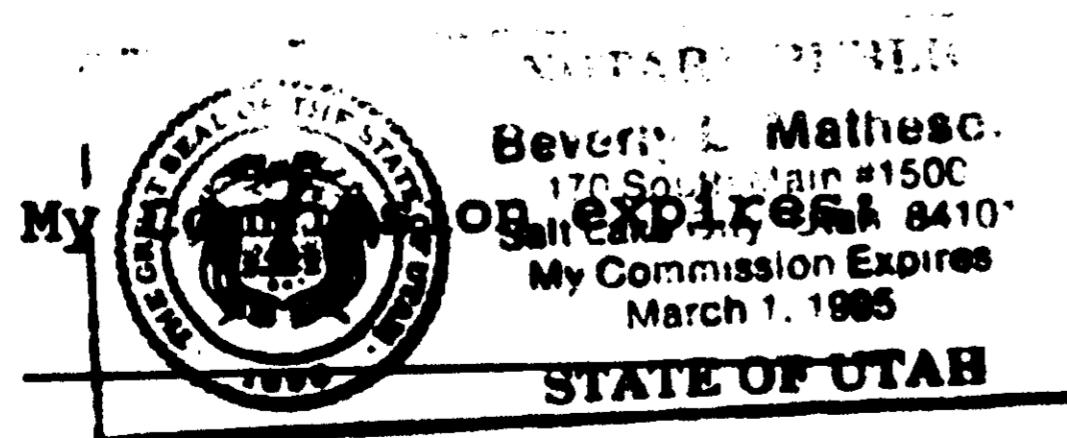


Exhibit "A"

LEGAL DESCRIPTION

The real property which is referred to as the "Mortgaged Property" in the second paragraph of the MORTGAGE AND SECURITY AGREEMENT to which this is attached as an exhibit is described as follows:

The West half of the Southeast quarter of Section 22, Township 1 South, Range 3 East, SLB&M.

625 PAGE 431

Exhibit "A"