

2006-022241

Klamath County, Oregon



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11/06/2006 03:42:57 PM

Fee: \$136.00

## RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED  
BY THE PERSON REPRESENTING THE  
ATTACHED INSTRUMENT FOR RECORDING.  
ANY ERRORS IN THIS COVER SHEET DO NOT  
AFFECT THE TRANSACTION(S) CONTAINED  
IN THE INSTRUMENT ITSELF.

MTCTT525KR

**After Recording, Return To: Metropolitan Life Insurance Company**  
**A New York corporation**  
**8717 W. 110<sup>th</sup> Street, Suite 700**  
**Overland Park, KS 66210**

- 1. Name(s) of the Transaction(s): Mortgage, Assignment of Rents,  
Security Agreement and Fixture Filing**
- 2. Direct Party (Grantor): W. C. Ranch, Inc., an Oregon corporation**
- 3. Indirect Party (Grantee): Metropolitan Life Insurance Company**
- 4. True and Actual Consideration Paid: \$1,000,000.00**
- 5. Legal Description: See Attached Exhibit "A"**

121 + 15

5. WARRANTIES OF MORTGAGOR

- 5.1 Title. Mortgagor warrants that it holds merchantable title to the Property in fee simple free of all encumbrances other than those set forth in title insurance policy issued to Mortgagee in connection with the closing of the loan evidenced by the Note.
- 5.2 Defense of Title. Subject to the exceptions in the paragraph above, Mortgagor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Mortgagor's title or the interest of Mortgagee under this Mortgage, Mortgagor shall defend the action at its expense. If any Permitted Encumbrance is a lien, Mortgagor shall pay any sums and do any other acts necessary to prevent a default or prevent any action or condition which, with the lapse of time, the giving of notice or any other action of a creditor, would be a default or enable any creditor to declare a default or foreclose any Permitted Encumbrance which is a lien.
- 5.3 Other Agreements. Mortgagor represents and warrants that the borrowing evidenced by the Note and the execution and delivery of the Note, and Agreement and this Mortgage will not contravene any provision of law or of the articles of incorporation or bylaws, articles of organization or operating agreement of the Mortgagor or any other agreement binding upon Mortgagor.
- 5.4 No Litigation. Mortgagor represents and warrants that there is no litigation pending or, to the best of knowledge of its officers, threatened against Mortgagor which will substantially adversely affect the ability of Mortgagor to perform its obligations hereunder, nor will the execution or performance of this Mortgage and the Note violate the terms of any order of any court. If such litigation is filed, Mortgagor agrees to notify Mortgagee promptly by providing Mortgagee with a copy of the summons and complaint.

6. CONDEMNATION

- 6.1 Application of Net Proceeds. If all or any part of the Property is condemned, Mortgagee may elect to require that all or any portion of the net proceeds of the condemnation be applied on the Indebtedness. The "net proceeds" shall mean the total amount available after payment of all reasonable costs, expenses and attorneys' fees necessarily paid or incurred by Mortgagor and Mortgagee in connection with the taking by condemnation. Sale of all or any part of the Property to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power shall be treated as a taking by condemnation to which this section shall apply.
- 6.2 Proceedings. If any proceedings in condemnation are filed, Mortgagor shall promptly take such steps as may be necessary to defend the action and obtain the award. Mortgagee shall be entitled, at its option, to commence, appear in and prosecute in its own name, any action or proceeding, or to make any compromise or settlement, in connection with such taking or damage, and to obtain all

compensation, awards or other relief therefore to which Mortgagor may be entitled.

## 7. IMPOSITION OF TAX BY STATE

The following shall constitute state taxes to which this section applies:

- (a) A specific tax upon mortgage deeds or upon all or any part of the indebtedness secured by a mortgage.
- (b) A specific tax on mortgagor which the taxpayer is authorized or required to deduct from payments on the indebtedness secured by a mortgage.
- (c) A tax on a mortgage chargeable against the Mortgagee or the holder of the note secured.
- (d) A specific tax on all or any portion of the indebtedness or on payments of principal and interest made by a mortgagor.

If any state tax to which this section applies is enacted subsequent to the date of this Mortgage, this shall have the same effect as a default, and Mortgagee may exercise any or all of the remedies available to it in the event of a default unless the following conditions are met:

- (a) Mortgagor may lawfully pay tax or charge imposed by the state tax, and
- (b) Mortgagor pays the tax or charge within 30 days after notice from Mortgagee that the tax law has been enacted.

## 8. TRANSFER BY MORTGAGOR

8.1 Prohibition of Transfer Without Consent. Mortgagor shall not sell, lease, agree to sell or lease, assign, convey, subcontract, encumber or otherwise transfer any part or all of the Property or any interest in the Property without the prior written consent of Mortgagee, which may be withheld in Mortgagee's sole discretion. If Mortgagor or a prospective transferee applies to Mortgagee for consent to a transfer, Mortgagee may require such information as may be reasonably necessary for Mortgagee to assess the prospective transferee's prior business experience, reputation and financial ability to perform Mortgagor's obligation under this Mortgage. For the purpose of this Section 8.1, and without limiting the generality of the foregoing, the occurrence at any time of any of the following events, without Mortgagee's prior written consent, shall be deemed to be a transfer of title to the Property:

- (a) Any sale, conveyance, lease, assignment or other transfer of, or the grant of a security interest in all or any part of the legal or equitable title to the Property; or
- (b) Any conveyance, grant or other transfer of the legal or equitable title to the Property which occurs by operation of law, by trustees in bankruptcy,

receivers or estate administrators or executors, or by or through a bankruptcy court.

- (c) A sale, assignment or transfer in any manner of the corporate stock in WC Ranch, Inc. which results in ten or more percent of the corporate stock in WC Ranch, Inc. being held by individuals or entities which are not, on the date hereof, (i) shareholders of WC Ranch, Inc., or (ii) the spouse or lineal descendants of Michael B. Wray and John W. Dey.

8.2 Condition to Consent. As a condition of its consent to any transfer, Mortgagee may in its discretion impose a service charge and may increase the interest rate of the Indebtedness to such rate as Mortgagee may then determine to be its current rate on comparable new agricultural loans in the State of Oregon. Mortgagee may increase the amount of each remaining installment so that the Indebtedness will be fully paid by the original maturity date. In no event, however, shall the interest rate be increased beyond the maximum rate permitted under applicable law.

8.3 Effect of Consent. Consent by Mortgagee to one transfer shall not constitute a consent to other transfers or a waiver of this section. No transfer by Mortgagor shall relieve Mortgagor of liability for payment of the Indebtedness. Following a transfer, Mortgagee may agree to any extension of time for payment or modification of the terms of this Mortgage or the Note or waive any right or remedy under this Mortgage or the Note without relieving Mortgagor from liability. Mortgagor waives notice, presentment and protest with respect to the Indebtedness.

## 9. SECURITY AGREEMENT; SECURITY INTEREST; ASSIGNMENT OF LEASES

9.1 Security Agreement. This instrument shall constitute a security agreement with respect to the fixtures, Income and personal property included in the description of the Property.

9.2 Security Interest. Upon request by Mortgagee, Mortgagor shall execute financing statements and take whatever other action is requested by Mortgagee to perfect and continue Mortgagee's security interest in the fixtures, Income and personal property. Mortgagor hereby appoints Mortgagee as Mortgagor's attorney in fact for the purpose of executing any documents necessary to perfect or continue the security interest granted therein, and authorizes Mortgagee to file such financing statements as Mortgagee deems appropriate to perfect its security interest in the fixtures, Income and personal property. Mortgagee may file copies or reproductions of this deed as a financing statement at any time without further authorization from Mortgagor. Mortgagor will reimburse Mortgagee for all expenses incurred in perfecting or continuing this security interest. Upon default, Mortgagor shall assemble the personal property and make it available to Mortgagee within three days after receipt of written demand from Mortgagee.

9.3 Fixture Filing. This instrument constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the County in which the

Real Property is located with respect to any and all fixtures included in the term Property as used herein and with respect to any goods or other personal property that may now be or hereafter becomes fixtures.

Name and address of Mortgagee (Secured Party) from whom information may be obtained:

Metropolitan Life Insurance Company  
Agricultural Investments  
8717 West 110th St., Suite 700  
Overland Park, KS 66210-2101

Mailing address of Mortgagor (Debtor):

WC Ranch, Inc.  
17356 Hill Road  
Klamath Falls, OR 97603

Additional information regarding WC Ranch, Inc.:

State of Organization: Oregon  
Organization Number: 144976-14  
Type of Entity: corporation

#### 9.4 Assignment of Leases.

9.4.1 As additional collateral and to further secure the Indebtedness and other obligations of Mortgagor, Mortgagor does hereby absolutely, presently and irrevocably assign, grant, transfer, and convey to Mortgagee, its successors and assigns, all of Mortgagor's right, title, and interest in, to, and under all leases, subleases, tenant contracts, rental agreements, franchise agreements, management contracts, construction contracts and other contracts, licenses and permits, map approvals and conditional use permits, whether written or oral, now or hereafter affecting all or any part of the Property, and any agreement for the use or occupancy of all or any part of said Property which may have been made heretofore or which may be made hereafter, including any and all extensions, renewals, and modifications of the foregoing and all extensions, renewals, and modifications of the foregoing and guaranties of the performance or obligations of any tenants thereunder, and all other arrangements of any sort resulting in the payment of money to Mortgagor or in Mortgagor becoming entitled to the payment of money for the use of the Property or any part thereof whether such user or occupier is tenant, invitee, or licensee (all of the foregoing hereafter referred to collectively as the "Leases" and individually as a "Lease", and said tenants, invitees, and licensees are hereafter referred to collectively as "Tenants" and individually as "Tenant" as the context requires), which Leases cover all or portions of the Property; together with all of Mortgagor's right, title, and interest in and to all income, rents, issues, royalties, profits, rights and benefits and all Tenants' security and other similar deposits derived with respect to the Leases and with respect to the Property, including, without limitation, all base and minimum rents, percentage rents, additional rents, payments in lieu of rent, expense contributions, and other similar such payments and the right to collect the same as they become due, it being the intention of the parties hereto to establish an absolute transfer and assignment of all of the Leases and the Income to Mortgagee, and not just to create a security interest.

9.4.2 Mortgagor hereby represents, warrants, and agrees as follows:

- (a) Mortgagor is the sole holder of the landlord's interest under the Leases, is entitled to receive the Income under the Leases and from the Property, and has the full right to sell, assign, transfer, and set over the same and to grant to and confer upon Mortgagee the rights, interests, powers and authorities herein granted and conferred;
- (b) Mortgagor has made no pledge or assignment of the Leases or Income, other than to Mortgagee, and Mortgagor shall not, after the date hereof, make or permit any such pledge or assignment.

9.4.3 Mortgagor shall authorize and direct, and does hereby authorize and direct, each and every present and future Tenant of the whole or any part of the Property to pay all rental to Mortgagee from and after the date of receipt of written demand from Mortgagee to do so.

9.4.4 Although this Mortgage constitutes as absolute, present and current assignment of all Income, as long as no event of default as described in Section 11 on the part of the Mortgagor shall have occurred, Mortgagee shall not demand that such Income be paid directly to Mortgagee, and Mortgagor shall have a license to collect, but not more than one (1) month prior to the due date thereof all such Income from the Property (including, without limitation, all rental payments under the Leases).

#### 10. RELEASE ON FULL PERFORMANCE

If all of the Indebtedness is paid when due and Mortgagor otherwise performs all the obligations imposed upon Mortgagor under this Mortgage, Mortgagee shall, if requested, execute and deliver to Mortgagor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file.

#### 11. DEFAULT

The following shall constitute events of default:

- (a) Failure of Mortgagor to pay, or cause to be paid, any portion of the Indebtedness when it is due.
- (b) Failure of Mortgagor within the time required by this Mortgage to make any payment for taxes, assessments, insurance, or any other payment necessary to prevent filing or discharge of any lien.
- (c) Transfer or agreement to transfer any part or interest in the Property without the prior written consent of Mortgagee, as required under Section 8 above.
- (d) Dissolution, termination of existence, insolvency on a balance sheet basis or business failure of Mortgagor; the commencement by Mortgagor of a voluntary case under the federal bankruptcy laws or under any other federal or state law relating to insolvency or debtor's relief; the entry of a decree or order for relief against Mortgagor in an involuntary case under federal or state law relating to

insolvency or debtor's relief; the appointment or the consent by Mortgagor to the appointment of a receiver, trustee or custodian of Mortgagor or of any of Mortgagor's property; an assignment for the benefit of creditors by Mortgagor; the making or suffering by Mortgagor of a fraudulent transfer under applicable federal or state law; concealment by Mortgagor of any of its property in fraud of creditors; the making or suffering by Mortgagor of a preference within the meaning of the federal bankruptcy law; the imposition of a lien through legal proceedings or distraint upon any of the property of Mortgagor which is not discharged or bonded in the manner permitted by Section 3.2 above; or Mortgagor's failure generally to pay its debts as such debts become due. The events of default in this paragraph shall apply and refer to Mortgagor and to each of the individuals or entities which are collectively referred to as "Mortgagor."

- (e) Failure of Mortgagor to perform any other obligation under this Mortgage or the Agreement within 10 days after receipt of written notice from Mortgagee specifying the nature of the default or, if the default cannot be cured within 10 days, failure within such time to commence and pursue curative action with reasonable diligence. No notice of default and no opportunity to cure shall be required if during the prior 12 months Mortgagee has already sent a notice to Mortgagor concerning default in performance of the same obligation.
- (f) Any representation or warranty of Mortgagor contained herein or in the Agreement proving to be untrue or misleading in any material respect.

## 12. RIGHTS AND REMEDIES ON DEFAULT

12.1 Remedies. Upon the occurrence of any event of default and at any time thereafter, Mortgagee may exercise any one or more of the following rights and remedies:

- (a) Mortgagee may declare the entire Indebtedness immediately due and payable.
- (b) Mortgagee may obtain a decree foreclosing Mortgagor's interest in all or any part of the Property. If permitted by applicable law, Mortgagee may foreclose Mortgagor's interest in all or any part of the Property by nonjudicial sale.
- (c) If permitted by applicable law, Mortgagee may obtain a judgment against Mortgagor for any deficiency remaining in the Indebtedness due to Mortgagee after application of all amounts received from the exercise of the rights provided in this section.
- (d) With respect to all or any part of the Property that constitutes personalty, may exercise the rights and remedies of a secured party under the Uniform Commercial Code.
- (e) Mortgagee shall have the right, without notice to Mortgagor, to take possession of the Property and collect the Income, including amounts past due and unpaid, and apply the net proceeds, over and above

Mortgagee's costs, against the Indebtedness. In furtherance of this right, Mortgagee may require any tenant or other user to make payments of rent or use fees directly to Mortgagee. If the Income is collected by Mortgagee, then Mortgagor irrevocably designates Mortgagee as Mortgagor's attorney in fact to endorse instruments received in payment thereof in the name of Mortgagor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Mortgagee in response to Mortgagee's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Mortgagee may exercise its rights under this paragraph either in person, by agent or through a receiver.

- (f) Mortgagee shall have the right to have a receiver appointed to take possession of any or all of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, to collect the Income from the Property and to apply the proceeds, over and above cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Mortgagee's right to the appointment of a receiver shall exist whether or not apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Mortgagee shall not disqualify a person from serving as a receiver.
- (g) In the event Mortgagor remains in possession of the Property after the Property is sold as provided above or Mortgagee otherwise becomes entitled to possession of the Property upon default of Mortgagor, Mortgagor shall become a tenant at will of Mortgagee or the purchaser of the Property and shall pay a reasonable rental for use of the Property while in Mortgagor's possession.
- (h) Mortgagee shall have any other right or remedy provided in this Mortgage, the Note, the Agreement, or any other instrument delivered by Mortgagor in connection therewith, or available at law, in equity or otherwise.

12.2 Rights of Receiver or Mortgagee-in-Possession. Upon taking possession of all or any part of the Property, the receiver or Mortgagee may:

- (a) Use, operate, manage, control and conduct business on the Property and make expenditures for all maintenance and improvements as in its judgment are proper;
- (b) Collect the Income from the Property and apply such sums to the expenses of use, operation and management;
- (c) At Mortgagee's option, complete any construction in progress on the Property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Mortgagee deems appropriate; and



- (d) Cancel or terminate any lease or agreement for any cause for which Mortgagor would be entitled to cancel the same, elect to disaffirm any lease or agreement subordinate to the lien of this Mortgage and extend or modify any lease and make any new leases on any portion of the Property.

If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Mortgagee (if Mortgagee, in its sole discretion, agrees to lend) or otherwise, or Mortgagee may borrow or advance such sums as the receiver or Mortgagee may deem necessary for the purposes stated in this paragraph. The amounts borrowed or advanced shall bear interest from the date of expenditure until repaid at the same interest rate as provided in Section 13.4 below. Such sums shall become a part of the Indebtedness secured by this Mortgage and shall be payable by Mortgagor on demand.

12.3 Sale of the Property. In exercising its rights and remedies, Mortgagee may cause all or any part of the Property to be sold as a whole or in parcels, and certain portions of the Property may be sold without selling other portions. Mortgagee may bid at any public sale on all or any portion of the property.

12.4 Notice of Sale. Mortgagee shall give Mortgagor reasonable notice of the time and place of any public sale of any personal property or of the time after which any private sale or other disposition of the personal property is to be made. Reasonable notice shall mean notice given at least 10 days prior to the time of the sale or disposition.

12.5 Waiver; Election of Remedies. A waiver by either party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. Election by Mortgagee to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Mortgagee under this Mortgage are cumulative and not exclusive. An election to make expenditures or to take action to perform an obligation of Mortgagor shall not affect Mortgagee's right to declare a default and exercise its remedies under this Mortgage.

12.6 Attorneys' Fees; Expenses. In the event suit or action is instituted to enforce any of the terms of this Mortgage, the prevailing party shall be entitled to recover its reasonable attorneys' fees at trial, on any appeal and on any petition for review, in addition to all other sums provided by law. Whether or not any court action is involved, all reasonable expenses incurred by Mortgagee that are necessary at any time in Mortgagee's opinion for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest from the date of expenditure until repaid at the same interest rate as provided in Section 13.4 below. Expenses covered by this paragraph include (without limitation) the cost of searching records and obtaining title reports, surveyors' reports, attorneys' fees and title insurance. Any expenses covered by this section shall be a lien on the Property prior to any right, title or interest in or claim upon the Property attaching or accruing subsequent to the lien of this Mortgage, and shall be added to the principal amount intended to be secured hereby.

12.7 Application of Proceeds from Property. All proceeds realized from the exercise of Mortgagee's rights and remedies shall be applied as follows:

- (a) To pay the costs of exercising such rights and remedies, including the costs of any sale, the costs and expenses of any receiver or

mortgagee-in-possession and the costs and expenses provided for in Section 12.6;

- (b) To pay all amounts owed by Mortgagor payment of which is secured by this Mortgage;
- (c) The surplus, if any, shall be paid to the clerk of the court in the case of a foreclosure by a judicial proceeding, otherwise to the person or persons legally entitled thereto.

### 13. MISCELLANEOUS

13.1 Time of Essence. Time is of the essence of this Mortgage.

13.2 Binding upon Successors and Assigns. Subject to the limitations stated in this Mortgage on transfer of Mortgagor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns.

13.3 Security Agreement. In construing this Mortgage, the term "Mortgage" shall encompass the term "security agreement" when the instrument is being construed with respect to any personal property.

13.4 Expenditure by Mortgagee. If Mortgagor fails to comply with any provision of this Mortgage, Mortgagee may elect to take the required action on Mortgagor's behalf, and any amount that Mortgagee expends in so doing shall be added to the Indebtedness. Amounts so added shall be payable on demand with interest from the date of expenditure at the Default Interest Rate (as specified in the Note), but not in any event at a rate higher than the maximum rate permitted at law. Such action by Mortgagee shall not constitute a cure or waiver of the default or any other right or remedy which Mortgagee may have on account of Mortgagor's default.

13.5 Notices. Any notice under this Mortgage shall be in writing and shall be effective when either delivered in person or, if mailed, shall be deemed effective when deposited as registered or certified mail, postage prepaid, addressed to the party at the address stated in this Mortgage. Any party may change its address for notices by written notice to the other.

13.6 Invalid Provisions to Affect No Others. If any of the provisions contained in the Note or this Mortgage shall be invalid, illegal or unenforceable in any respect, the validity of the remaining provisions in this Mortgage and the Note shall not be affected thereby.

13.7 Changes in Writing. This Mortgage and any of its terms may only be changed, waived, discharged or terminated by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement subsequently made by Mortgagor or Mortgagee relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

13.8 Applicable Law. This Mortgage has been executed and delivered to Mortgagee in the State of Oregon. The law of the State of Oregon shall be applicable for the purpose of construing and determining the validity of this Mortgage and, to the fullest extent permitted by the law of any state in which any of the Property is located, determining the rights and remedies of Mortgagee on default.

13.9 Joint and Several Liability. If Mortgagor consist of more than one person or entity, the obligations imposed upon Mortgagor under this Mortgage shall be joint and several.

13.10 Assignment of Oil, Gas and Mineral Income. Mortgagor hereby presently assigns and transfers to Mortgagee the Income and all sums payable to them under any and all oil, gas and mineral leases relating to the Real Property now negotiated or to be negotiated. However, these assigned payments shall continue to be paid to Mortgagor unless and until the Mortgagee gives written notice of a default by the Mortgagor under the terms of this Mortgage or the Note of even date herewith. Once this written notice has been given by the Mortgagee, the Mortgagor is entitled to receive any such payments. If any such default is timely cured, all assigned payments shall continue to be paid to the Mortgagor.

13.11 The following exhibits are attached hereto and made a part hereof as fully as if set forth herein:

Exhibit A	Legal Description
Exhibit B	Certain Personal Property

13.12 Counterparts. This Mortgage may be executed in any number of counterparts, each of which, when so executed and delivered shall be deemed to be an original and all of which together shall constitute on and the same instrument.

**WARNING:** UNLESS YOU (MORTGAGOR) PROVIDE US (MORTGAGEE) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, THE COVERAGE WE PURCHASE MAY NOT PAY ANY CLAIM YOU MAKE OR ANY CLAIM MADE AGAINST YOU. YOU MAY LATER CANCEL THIS COVERAGE BY PROVIDING EVIDENCE THAT YOU HAVE OBTAINED PROPERTY COVERAGE ELSEWHERE. YOU ARE RESPONSIBLE FOR THE COST OF ANY INSURANCE PURCHASED BY US. THE COST OF THIS INSURANCE MAY BE ADDED TO YOUR CONTRACT OR LOAN BALANCE. IF THE COST IS ADDED TO YOUR CONTRACT OR LOAN BALANCE, THE INTEREST RATE ON THE UNDERLYING CONTRACT OR LOAN WILL APPLY TO THIS ADDED AMOUNT. THE EFFECTIVE DATE OF COVERAGE MAY BE THE DATE YOUR PRIOR COVERAGE LAPSED OR THE DATE YOU FAILED TO PROVIDE PROOF OF COVERAGE.

IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly executed as of the day and year first written above.

WC RANCH, INC.  
an Oregon Corporation

By: 

Michael B. Wray, President

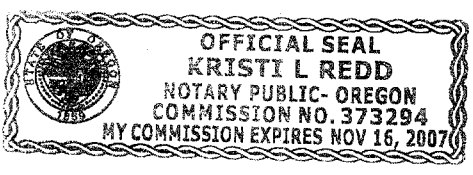
Michael B. Wray  
Michael B. Wray (individually)

John W. Dey  
John W. Dey (individually)

Nancy L. Dey  
Nancy L. Dey (individually)

STATE OF OREGON )  
COUNTY OF Klamath ) SS.

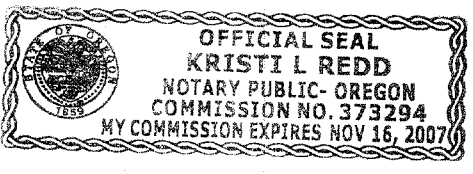
This instrument was acknowledged before me November 3, 2006, by Michael B. Wray, President of WC Ranch, Inc., an Oregon corporation.



Kristi L. Redd  
Notary Public  
My commission expires: 11/16/2007  
Commission No.: 373294

STATE OF OREGON )  
COUNTY OF Klamath ) SS.

This instrument was acknowledged before me November 3, 2006, by Michael B. Wray.



Kristi L. Redd  
Notary Public  
My commission expires: 11/16/2007  
Commission No.: 373294

STATE OF OREGON )  
COUNTY OF Klamath ) SS.

This instrument was acknowledged before me November 3, 2006, by John W. Dey.



Kristi L. Redd  
Notary Public  
My commission expires: 11/16/2007  
Commission No.: 373294

STATE OF OREGON

COUNTY OF

Klamath

) SS.  
)

This instrument was acknowledged before me November 3, 2006, by Nancy L. Dey.

Kristi L. Redd

Notary Public

My commission expires: 11/16/2007

Commission No.: 373294



**EXHIBIT A  
TO  
MORTGAGE**

**LEGAL DESCRIPTION**

**PARCEL 1**

The following described property in Township 40 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon:

Section 21: Government Lot 4

Section 22: NW1/4 NW1/4; S1/2 NW1/4; NW1/4 SW1/4, EXCEPTING that portion Southerly of Hill Road; E1/2 SW1/4; W1/2 SE1/4; SW1/4 SW1/4

Section 23: E1/2 W1/2; W1/2 NE1/4 and NW1/4 SE1/4

Section 26: NE1/4 NW1/4

Section 27: Government Lots 5, 6, 7, 8 and 9; SE1/4 SE1/4; N1/2 NW1/4; SE1/4 NW1/4; W1/2 NE1/4

LESS the following: Beginning at a 5/8 inch iron pin marking the Northeast corner of the NW1/4 NE1/4 of said Section 27; thence South 00° 33' 36" West, along the East line of said NW1/4 NE1/4 of said Section 27, 1,382.64 feet, more or less, to the Northerly right of way line of Hill Road, a county road; thence Northwesterly along the Northerly right of way line of said Hill Road 1300 feet, more or less, to a one-inch iron pin at the intersection of said right of way line with a fence running Northeast; thence along said fence and the Northeasterly projection thereof North 42° 12' 33" East 542.46 feet to a one-inch iron pin set in the center of a dirt road; thence leaving said fence line North 35° 05' 31" East 392.34 feet to a point on the North line of said Section 27, said point being marked by a one-inch iron pin; thence North 89° 58' 17" East along the said North line of said Section 27, 420.87 feet to the point of beginning.

AND ALSO SAVING AND EXCEPTING THEREFROM a parcel of land situated in the SE1/4 SE1/4, in Lot 5, and in Lot 6 all being in Section 27, Township 40 South, Range 10 East of the Willamette Meridian, and being more particularly described as follows:

Beginning at a point where the South line of said Section 27 intersects the Westerly right of way line of the Burlington Northern Railroad, from which the Southeast corner of said Section 27 bears South 89° 38' 24" East, 1097.43 feet; thence North 28° 45' 24" West, along said right of way line, 1029.75 feet; thence South 61° 14' 36" West 50.00 feet; thence North 28° 45' 24" West, 655.60 feet; thence along the arc of a 5629.65 foot radius curve to the left (delta equals 01° 10' 05"), 114.77 feet to the South line of a drainage easement; thence South 57° 42' West along the South line of said drainage easement, 275.64 feet, more or less, to a point on the mean high water line of the left bank of Lost River; thence Southeast along said mean high water line to a point on the South line of said Section 27; thence South 89° 38' 24" East, along said South line 751.73 feet, more or less, to the point of beginning.

Section 28: Government Lot 4

EXCEPTING FROM the above described lands, Right of Way for Great Northern Railroad as set out in Transcript of Decree dated June 6, 1931, recorded November 2, 1931 in Volume 96, Page 246 Deed Records of Klamath County, Oregon.

ALSO EXCEPTING THEREFROM that portion lying within public roads and highways and within the USBR canals and drains.

**EXHIBIT B  
TO  
MORTGAGE**

Exhibit B

1976 Pierce center pivot, seven towers, with Nelson heads  
1996 Valley Center pivot, five tower with drop nozzles  
(2) Western/ Wade Rain wheel move lines, ½ mile, 5" with 72" wheel unit  
(1) Western/ Wade Rain wheel move line, ½ mile, 5" with 60" wheel unit  
(1) Western/ Wade Rain wheel move line, ¼ mile, 4" with 72" wheel unit  
(1) Western/ Wade Rain wheel move line, ¼ mile, 4" with 60" wheel unit  
8" Aluminum mainline pipe: ½ mile  
6" Aluminum mainline pipe: 1 mile  
5" Aluminum mainline pipe: ½ mile  
4" Aluminum mainline pipe: ¼ mile  
3" diameter handline with 12" and 178" risers, and Wade Rain impact sprinklers, 1 mile  
25hp Century electric motor, #7971692  
40hp Century electric motor, #7583250  
15hp Century electric motor, #7673518  
40hp Marathon electric motor  
50hp Baldor electric motor, #M4415  
60hp Century electric motor, #7674967  
Various Berkeley centrifugal pumps



**MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT  
AND FIXTURE FILING**

DATED: November 2, 2006

FROM: W.C. RANCH, INC., an Oregon corporation  
MICHAEL B. WRAY  
JOHN W. DEY and NANCY L. DEY, Husband and Wife,  
17356 Hill Road  
Klamath Falls, OR 97603

MORTGAGOR

TO: METROPOLITAN LIFE INSURANCE COMPANY  
a New York corporation  
8717 W. 110<sup>th</sup> Street, Suite 700  
Overland Park, KS 66210

MORTGAGEE

Mortgagor is the owner of the real property in Klamath County, Oregon described on the attached Exhibit A.

Mortgagee has loaned or agreed to loan to Mortgagor, ONE MILLION AND NO/100 Dollars (\$1,000,000.00) on certain terms and conditions. Such amount will be repayable with interest according to the terms of a promissory note given to evidence such indebtedness, dated the same as this Mortgage, under which the final payment of principal and interest will be due on October 10, 2026. The promissory note, and any note or notes given in renewal, modification, substitution or addition to the promissory note originally issued, is referred to as "the Note." The loan is subject to those terms and conditions contained in a Loan Agreement of even date hereof between Mortgagor and Mortgagee (the "Agreement").

The term "Indebtedness" as used in this Mortgage shall mean (a) the principal and interest payable under the Note, (b) any future amounts that Mortgagee may in its discretion loan to Mortgagor, with interest thereon, (c) any amounts expended or advanced by Mortgagee to discharge obligations of Mortgagor or expenses incurred by Mortgagee to enforce obligations of Mortgagor, as permitted under this Mortgage, with interest thereon as provided below, and (d) any amount, with interest thereon as provided in Section 13.4 below, payable by Mortgagor to Mortgagee under the provisions of Section 4 of the Agreement, to the extent Mortgagee specifically elects by written notice to Mortgagor to include such amounts in the Indebtedness.

To secure payment of the Indebtedness and performance of all obligations of Mortgagor under this Mortgage and the Agreement, Mortgagor mortgages, conveys and assigns to Mortgagee the following:

- A. The real property described on the attached Exhibit A, with all appurtenances and existing or future improvements (the "Real Property");
- B. All buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Real Property, including, without limitation, (i) houses, barns, sheds, warehouses, pumphouses, bunkhouses, mobile homes, modular homes, hothouses and all other buildings, (ii) grain bins, storage bins, metal sheds and buildings, water towers, and

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windmills, (iii) all towers, fences, gates and posts, (iv) all electric, water and gas lines, wiring, pipe and equipment together with meters, transformers, switch boxes, fuse panels, circuit breakers, timing devices, thermostats and control valves, (v) air conditioning and heating equipment including coils, compressors, ducts and heaters, (vi) all wall-to-wall carpet, refrigerators, stoves and other built-in equipment, and (vii) all additions, substitutions and replacements thereof now or hereafter owned by Mortgagor and located in, on or about, or used or intended to be used with or in connection with the use, operation or enjoyment of the Real Property, all of which are hereby declared and shall be deemed to be fixtures and accessions to the Real Property as between the parties hereto and all persons claiming by, through or under them, and which shall be deemed to be a portion of the security for the indebtedness herein described and to be secured by this Mortgage;

- C. All easements, rights-of-way, strips and gores of land, vaults, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, shrubs, trees and timber now or hereafter located on the Real Property or under or above the same or any part or parcel thereof, and all estates, rights, titles, interests, minerals, royalties, easements, privileges, liberties, tenements, hereditaments and appurtenances, reversion and reversions, remainder and remainders whatsoever, in any way belonging, relating or appertaining to the Real Property or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Mortgagor;
- D. All present and future income, rents, issues, profits and revenues of the Real Property from time to time accruing (including, without limitation, all payments under leases or tenancies, unearned premiums on any insurance policy carried by Mortgagor for the benefit of Mortgagee and/or the Real Property, tenant security deposits, escrow funds and all awards or payments, including interest thereon and the right to receive same, growing out of or as a result of any exercise of the right of eminent domain, including the taking of any part or all of the Real Property or payment for alteration of the grade of any road upon which said Real Property abuts, or any other injury to, taking of or decrease in the value of said Real Property to the extent of all amounts which may be owing on the indebtedness secured by this Mortgage at the date of receipt of any such award or payment by Mortgagor, and the reasonable attorneys' fees, costs and disbursements incurred by Lender in connection with the collection of such award or payment), and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law or in equity, of Mortgagor of, in and to the same (the "Income"); reserving only the right to Mortgagor to collect the same as long as no default or event of default as defined in Section 11 below shall have occurred;
- E. All improvements, fixtures and equipment now owned or hereafter acquired by the Mortgagor that now or hereafter are located on, affixed or attached to, or incorporated in the Real Property or the improvements thereon, including (i) all irrigation pumps, motors, pipes, sprinklers and other irrigation equipment, (ii) all livestock handling equipment, including but not limited to all corrals, scales, chutes, and fences, (iii) all substitutions for, or replacements of, the foregoing; including, without limitation, the items listed on attached Exhibit B (but not including tractors, farm implements, or hand or shop tools);
- F. All water, water rights, ditches and ditch rights, and any permits, licenses, certificates or shares of stock evidencing any such water or ditch rights, and all water delivery contracts,

and any such rights acquired in the future, which entitle Mortgagor to use water for any purpose upon the Real Property, including, but not limited to all rights of Mortgagor or the Real Property in, and rights of Mortgagor or the Real Property to obtain water from, the Klamath Irrigation District and the Klamath Basin Improvement District;

- G. All of Mortgagor's right, title and interest in all leases of or pertaining to the Real Property;
- H. All accessions, parts, or additions to and all replacements of and substitution for any of the property described in the preceding clauses; and
- I. All products of any of the property described on the preceding subparagraphs and all proceeds (including insurance proceeds) from the sale or other disposition of any of the property described in the preceding clauses; provided, that by accepting a security interest in proceeds Mortgagee does not consent to sale or other disposition of any of the foregoing.

The real and personal property described above is referred to as the "Property."

Mortgagor hereby grants Mortgagee a security interest in the Income and the personal property included in the Property.

This Mortgage is given and accepted on the following terms and conditions which Mortgagor will promptly and faithfully observe and perform:

1. PAYMENT AND PERFORMANCE

Mortgagor shall pay to, or cause to be paid to, Mortgagee promptly when due all amounts payment of which is secured by this Mortgage and shall strictly perform all obligations imposed upon Mortgagor by this Mortgage, the Agreement, and the Note.

2. POSSESSION AND MAINTENANCE OF THE PROPERTY

2.1 Possession. Until in default, Mortgagor may remain in possession and control of and operate and manage the Property and collect the Income from the Property.

2.2 Duty to Maintain. Mortgagor shall maintain the Property in good condition at all times and promptly perform all repairs and maintenance necessary to preserve its value. The Real Property shall be cultivated in accordance with good husbandry practices and all farming and ranching operations shall be conducted in such manner as to prevent deterioration of the Property, except for reasonable wear and tear from proper use. Without limiting the foregoing, Mortgagor shall operate and maintain the Property in accordance with good farm and ranch practice prevailing in the Klamath basin of Oregon.

2.3 Nuisance, Waste. Mortgagor shall not conduct or permit any nuisance and shall not commit or suffer any strip mining or waste on the Property.

2.4 Removal of Improvements. Mortgagor shall not demolish or remove any improvements, trees or permanent plantings from the Property without the prior

written consent of Mortgagee. Mortgagee shall consent if Mortgagor makes arrangements satisfactory to Mortgagee to replace any improvement which Mortgagor proposes to remove with one of at least equal value. "Improvements" shall include all existing and future buildings, structures and other fixtures and equipment now or hereafter installed in, attached to or used in connection with the Property, including but not limited to mobile homes, fences, corrals, silos, elevators, storage facilities and irrigation facilities.

- 2.5 Mortgagee's Right to Enter. Mortgagee and its agents and representatives may enter upon the Property at all reasonable times to attend to Mortgagee's interest and to inspect the Property and to inspect any and all financial and other records related to Mortgagee's operations on the Property.
- 2.6 Compliance with Governmental Requirements. Mortgagor shall promptly comply with all laws, ordinances and regulations of all governmental authorities applicable to the use or occupancy of the Property. Mortgagor may contest in good faith any such law, ordinance or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagee's interest in the Property is not jeopardized.
- 2.7 Duty to Protect. Mortgagor shall do all other acts, in addition to those set forth in this Mortgage, that are reasonably necessary to protect and preserve the security based upon the existing character and use of the Property.
- 2.8 Water Rights. All existing water rights benefiting the Property shall be maintained by Mortgagor and applied to beneficial use so as to maintain the validity and priority of such rights. Mortgagor shall fully comply with, and not permit a default to occur under, any water delivery contracts used to provide water to the Real Property, and shall timely exercise all renewal or extension rights in such contracts.

### 3. TAXES, ASSESSMENTS AND LIENS

- 3.1 Payment. Mortgagor shall pay when due all taxes and assessments levied against or on account of the Property, and all dues and assessments upon water or ditch rights or shares of stock evidencing any such right, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Mortgagor shall maintain the Property free of any liens having priority over or equal to the interest of Mortgagee under this Mortgage, except for the lien of taxes and assessments not due, except as otherwise provided in Section 3.2.
- 3.2 Right to Contest. Mortgagor may withhold payment of any tax, assessment or claim in connection with a good faith dispute over obligation to pay, so long as Mortgagee's interest in the Property is not jeopardized. If the Property is subjected to a lien which is not discharged within 15 days, Mortgagor shall upon demand by Mortgagee deposit with Mortgagee cash, a sufficient corporate surety bond or other security satisfactory to Mortgagee in an amount sufficient to discharge the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of foreclosure or sale under the lien. In any contest

proceedings, Mortgagor will defend itself and Mortgagee and will name Mortgagee as an additional obligee under any surety bond, and Mortgagor shall satisfy any final adverse judgment before enforcement against the Property.

- 3.3 Evidence of Payment. Mortgagor shall promptly furnish evidence of payment of taxes and assessments to Mortgagee promptly after each payment. Mortgagor shall authorize the appropriate county or district official to deliver to mortgagee at any time a written statement of the taxes and assessments against the Property, and shall pay the expense of a tax reporting service for the Property, if required by Mortgagee.
- 3.4 Notice of Construction. Mortgagor shall notify Mortgagee at least 15 days before any work is commenced, any services are furnished or any materials are supplied to the Property if a construction lien could be asserted on account of the work, services or materials. On Mortgagee's request, Mortgagor will promptly furnish advance assurances satisfactory to Mortgagee that Mortgagor can and will pay the cost of such improvements.
- 3.5 Farm or Forest Classification. Mortgagor agrees to maintain the farm use or forest lands classification of the Property on the tax roll, and not to allow any act or omission which would disqualify the Property for assessment as farm use or forest lands.

#### 4. PROPERTY DAMAGE INSURANCE

- 4.1 Maintenance of Insurance. Mortgagor shall carry such insurance as the Mortgagee may reasonably require. This shall include policies of fire and tornado insurance covering all improvements on the Property for at least their insurable value, in an amount sufficient to avoid application of any coinsurance clause and with loss payable to Mortgagee and insurance against such other risks as may be specified by the Mortgagee. Policies shall be written in amounts, in form, on terms and with companies reasonably acceptable to Mortgagee. Mortgagor shall deliver to Mortgagee certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of 10 days' written notice to Mortgagee.
- 4.2 Application of Proceeds. Mortgagor shall promptly notify Mortgagee of any loss or damage to the Property. Mortgagee may make proof of loss if Mortgagor fails to do so within 15 days of the casualty. Proceeds shall be paid directly to the Mortgagee. The proceeds of any insurance on the Property shall be used first to pay the cost of collecting such proceeds, if any, and then to prepay first accrued interest and then principal of Mortgagor's Indebtedness, or, at the election of the Mortgagee, such proceeds may be used to repair or replace the damaged or destroyed improvements in a manner satisfactory to Mortgagee.
- 4.3 Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of the Property.