

2022-000641

Klamath County, Oregon

01/18/2022 12:03:02 PM

Fee: \$192.00

WHEN RECORDED RETURN TO:

Royce Ann Simmons
Harvest Capital Company, LLC
PO Box 579
Canby, OR 97013

(space above reserved for recorder's use)

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

DATED: January 11, 2022

FROM: RYAN E. HARTMAN and JENNIFER L. HARTMAN, husband and wife
34611 Malin Loop Rd.
Malin, OR 97632

DOUGLAS M. CARPENTER and KELLI D. CARPENTER, husband and wife
6111 Flamingo Dr.
PO Box 4
Bonanza, OR 97623

CK & M LAND LLC, an Oregon limited liability company (which also appears of record
as "CK & M Land, LLC")
34611 Malin Loop Rd.
Malin, OR 97632

MORTGAGOR

TO: HARVEST CAPITAL COMPANY, LLC
PO Box 579
Canby, OR 97013

LENDER

CK & M LAND LLC, an Oregon limited liability company (which also appears of record as "CK & M Land, LLC") is the owner of the real property in Klamath County, Oregon described on the attached Exhibit A.

Lender has loaned or agreed to loan to Mortgagor, the sum of NINE HUNDRED NINETY SEVEN THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$997,500.00) 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, in such amount, dated the same as this Mortgage, under which the final payment of principal and interest will be due on January 1, 2047. Such note provides that the interest rate and payment terms may be adjusted as provided therein. Such note, and any note or notes given in renewal, modification, substitution or addition to the promissory note originally issued, are referred to as "Note." (This limitation of amount does not include interest and other fees and charges validly made pursuant to this Mortgage.

Also, this limitation does not apply to advances made under the terms of this Mortgage to protect Lender's security and to perform any of the covenants contained in this Mortgage.)

The term "**Indebtedness**" as used in this Mortgage shall mean (a) the principal and interest payable under the Note, including without limitation any and all future advances made by Lender thereunder, (b) any future amounts that Lender may in its discretion loan to Mortgagor, with interest thereon, and any and all additional indebtedness of Mortgagor to Lender, now existing or hereafter created, matured or unmatured, direct or contingent and any renewals and extensions thereof and substitutions therefor, whether or not such other indebtedness is incurred or becomes payable under the provisions hereof and whether as future advances or otherwise, even though the indebtedness of Mortgagor to Lender from time to time be reduced below the maximum amount above stated or be paid in full, (c) any amounts expended or advanced by Lender to discharge obligations of Mortgagor or expenses incurred by Lender to enforce obligations of Mortgagor, as permitted under this Mortgage, with interest thereon as provided below, and (d) any amounts with interest thereon at the rate specified in Section 12.4 below, payable by Mortgagor to Lender under the Environmental Indemnity Agreement executed by Mortgagor this same date (the "**Environmental Agreement**") to the extent Lender 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, Mortgagor mortgages and conveys to Lender, whether now or hereafter acquired, with power of sale, the following:

(1) The real property in Klamath County, Oregon described on attached Exhibit A (the "**Real Property**").

(2) All furnishings, fixtures (including trade fixtures), supplies, equipment and inventory used for the production of water on the Real Property or for the irrigation or drainage thereof, all livestock handling equipment located on or used in connection with the Real Property, including, but not limited to, fences, windmills, stock tanks and stock watering equipment, corrals, portable fence panels and scales (but excluding self-propelled motor driven vehicles and farm implements customarily towed or attached thereto) and all mobile and modular homes on the Real Property, and all other similar equipment on or used in connection with the Real Property, whether now owned or hereafter acquired, and whether now existing or hereafter arising, and all accessions, parts, additions, replacements and substitutions for any of such property, and all proceeds (including insurance proceeds) from the sale or other disposition of any of such property, including but not limited to the items described on attached Exhibit B (the "**Equipment**").

(3) All water, water rights, ditches and ditch rights, any permits, licenses, certificates or shares of stock evidencing any such water or ditch rights, 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 the items described on attached Exhibit C (the "**Water Rights**").

Mortgagor presently assigns to Lender all of Mortgagor's right, title and interest in and to all rents, revenues, income, issues and profits (the "**Income**") from the Real Property, Equipment and Water Rights whether now or hereafter due.

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

Mortgagor grants Lender a security interest in the Income, Equipment, Water Rights, all other personal property comprising the Property, and all proceeds thereof (the "**Personal 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 Lender 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.

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 and promptly perform all repairs and maintenance necessary to preserve its value. The Real Property shall be cultivated in accordance with good forestry practices and all farming and ranching operations shall be conducted in such a manner as to prevent deterioration of the Property.

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

2.4 Removal of Improvements. Mortgagor shall not demolish or remove any improvements from the Property without the prior written consent of Lender. Lender shall consent if Mortgagor makes arrangements satisfactory to Lender 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 improvements now or hereafter installed in or attached to the Real Property, including but not limited to fences, corrals, scales, mobile homes, silos, storage facilities, trellises, greenhouses, hoop houses, irrigation equipment and solar panels.

2.5 Lender's Right to Enter. Lender and its agents and representatives may enter upon the Property at all reasonable times to attend to Lender's interest and to inspect the Property and to inspect any and all financial and other records relating to Mortgagor'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 Lender'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 from the character and use of the Property are reasonably necessary to protect and preserve the security.

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 not sell, transfer, assign, encumber, convey, or surrender any of the water rights nor, without Lender's written consent, agree with any third party to any period of nonuse of the same. Mortgagor shall give Lender prompt notice of all notices and proceedings affecting water use in connection with the Property. Mortgagor agrees to execute any instrument deemed necessary by Lender to effect a collateral assignment of water rights to Lender.

3. TAXES AND LIENS.

3.1 Payment. Mortgagor shall pay when due all taxes and assessments levied against or on account of the Property, 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 Lender under this Mortgage, except for the lien of taxes and assessments not due, and 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 Lender'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 deposit with Lender cash, a sufficient corporate surety bond or other security satisfactory to Lender 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 Lender and will name Lender 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 Lender on its demand and shall authorize the appropriate county official to deliver to Lender 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 Lender.

3.4 Notice of Construction. Mortgagor shall notify Lender 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 and the cost exceeds \$10,000. On Lender's request, Mortgagor will promptly furnish advance assurances satisfactory to Lender that Mortgagor can and will pay the cost of such improvements.

3.5 Farm or Forest Classification. Mortgagor agrees to maintain the farm or forest use classification of the Property on the tax rolls, and not to allow any act or omission which would disqualify the Property for assessment as farm or forest lands.

4. PROPERTY DAMAGE INSURANCE.

4.1 Maintenance of Insurance. Mortgagor shall procure and maintain such policies of insurance as Lender may reasonably require. This shall include policies of fire insurance with standard extended coverage endorsements covering all improvements on the Property for their full insurable value, in an amount sufficient to avoid application of any coinsurance clause and with loss payable to Lender, and comprehensive general liability insurance in such coverage amounts as Lender may request, with Lender as an additional insured and designated as mortgagee. Policies shall be written in amounts, in form, on terms and with companies reasonably acceptable to Lender. Mortgagor shall deliver to Lender 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 Lender. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Mortgagor agrees to obtain and maintain Federal Flood Insurance for the unpaid balance of the Note, up to the maximum policy limits set under the National Flood Insurance Program.

4.2 Application of Proceeds. Mortgagor shall promptly notify Lender of any loss or damage to the Property which exceeds \$2,500. Lender may make proof of loss if Mortgagor fails to do so within 15 days of the casualty. All proceeds of any insurance on the Property shall be held by Lender as part of the Property. If Mortgagor elects to restore the Property, Mortgagor shall repair or replace the damaged or

destroyed improvements in a manner satisfactory to Lender. Upon satisfactory proof of expenditure, Lender shall pay or reimburse Mortgagor from the proceeds for the reasonable cost of repair or restoration. If Mortgagor elects not to restore the Property, Lender shall retain a sufficient amount of the proceeds to pay all amounts due under this Mortgage, and shall pay the balance to Mortgagor. Any proceeds which have not been paid out within one (1) year after their receipt and which Mortgagor has not committed to the repair or restoration of the Property shall be used to prepay first accrued interest and then principal of Mortgagor's Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Mortgagor.

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.

4.4 Mortgagor's Report on Insurance. Upon request by Lender, not more than once a year, Mortgagor shall furnish to Lender a report on each existing policy of insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining value; and (e) the expiration date of the policy.

5. **WARRANTIES OF MORTGAGOR.**

5.1 Title. Mortgagor warrants that Mortgagor holds merchantable title to the Property in fee simple free of all encumbrances other than those set forth in the title insurance policy issued to Lender at closing.

5.2 Business Purpose. Mortgagor warrants that the proceeds of the loan evidenced by the Note and this Mortgage are for an organization or for business purposes, and not primarily for personal, family or household purposes.

5.3 Defense of Title. Subject to the exceptions in the paragraph above, Mortgagor warrants and will forever defend the title 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 Lender under this Mortgage, Mortgagor shall defend the action at its expense.

5.4 Foreign Person's Compliance. Mortgagor represents, warrants and covenants neither Mortgagor nor any partner, member or shareholder of Mortgagor, and no legal or beneficial interest in a partner of Mortgagor, is a "foreign person" under the International Investment and Trade in Services Survey Act, the Agricultural Foreign Investment Disclosure Act of 1978, the Foreign Investments in Real Property Tax Act of 1980, the amendments of such Acts or regulation promulgated pursuant to such Acts (collectively, the "**Foreign Ownership Acts**"). Mortgagor, and all persons holding directly or indirectly any beneficial interest in Mortgagor, have complied with all filing and reporting requirements of the Foreign Ownership Acts, and are not in violation thereof. Neither Mortgagor, any affiliate of Mortgagor nor any person owning an interest in Mortgagor is or will be an entity or person (i) that is listed in the Annex to, or otherwise subject to, the provisions of Executive Order 13224 issued September 24, 2001 ("**EO13224**"), (ii) whose name appears on the most current list of the United States Treasury Department's Office of Foreign Assets Contract ("**OFAC**") list of "Specifically Designed National and Blocked Persons," (which list may be published from time to time in various mediums including, but not limited to, the OFAC website, <http://www.treas.gov/ofac/t11sdn.pdf>) as those terms are defined in the OFAC Regulations (31 CFR Section 500, *et seq.*); (iii) who commits, threatens to commit or supports "terrorism", as that term is defined in EO13224, or (iv) who is otherwise affiliated with any entity or person listed above (any and all parties or persons described in subparts [i] – [iv] above are herein referred to as a "**Prohibited Person**"). Mortgagor covenants and agrees that Mortgagor does not, and shall not (a) conduct any business, or engage in any

transaction or dealing, with any Prohibited Person, including, but not limited to the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (b) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in EO13224. Mortgagor has, in connection with its application for the loan secured by this Mortgage, furnished Lender with Mortgagor's federal tax identification number.

6. CONDEMNATION.

6.1 Application of Net Proceeds. If all or any part of the Property is condemned, and the value of the portion so condemned exceeds \$2,500, Lender 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 Lender 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. Mortgagor 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. TRANSFER BY MORTGAGOR.

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

(a) Any sale, conveyance, lease with a term greater than five (5) years (including renewal options), assignment or other transfer of all or any part of the legal or equitable title to the Property (including without limitation the grant of any trust deed or mortgage against the Property);

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

(c) If Mortgagor is a corporation, partnership or limited liability company, a sale, transfer or assignment of the corporate stock, partnership interests or membership interests, respectively, which results in more than twenty-five percent (25%) of the corporate stock, partnership interests or membership interests being held by persons or entities which are not, on the date hereof, shareholders, partners or members.

7.2 Condition to Consent. As a condition of its consent to any transfer, Lender may in its discretion impose a service charge not exceeding 1 percent of the outstanding Indebtedness, and may increase the interest rate of the Indebtedness or otherwise require modification of the Note or this Mortgage.

Lender 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.

7.3 Effect of Consent. Consent by Lender 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, Lender 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.

8. SECURITY AGREEMENT; SECURITY INTEREST.

8.1 Security Agreement. This instrument shall constitute a security agreement with respect to the Personal Property included in the description of the Property.

8.2 Security Interest. Mortgagor hereby authorizes Lender to prepare and file all such UCC-1 financing statements and amendments thereto and continuations thereof, and take whatever other action as Lender deems appropriate to perfect and continue Lender's security interest in the Personal Property. Mortgagor hereby appoints Lender 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 Lender to file such financing statements as Lender deems appropriate to protect its security interest in the Personal Property. Lender may file copies or reproductions of this Mortgage as a financing statement at any time and without further authorization from Mortgagor. Mortgagor will reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Mortgagor shall assemble the Personal Property and make it available to Lender within three days after receipt of written demand from Lender.

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

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

Harvest Capital Company, LLC
PO Box 579
Canby, OR 97013

Address of Mortgagor (Debtor):

RYAN E. HARTMAN and JENNIFER L. HARTMAN, husband and wife
34611 Malin Loop Rd.
Malin, OR 97632

DOUGLAS M. CARPENTER and KELLI D. CARPENTER, husband and wife
6111 Flamingo Dr.
PO Box 4
Bonanza, OR 97623

CK & M LAND LLC, an Oregon limited liability company
34611 Malin Loop Rd.
Malin, OR 97632

8.4 Assignment of Leases.

8.4.1 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 Lender, 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 Lender, and not just to create a security interest.

8.4.2 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 Lender 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 Lender, and Mortgagor shall not, after the date hereof, make or permit any such pledge or assignment.

8.4.3 Mortgagor hereby covenants and agrees as follows:

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 Lender from and after the date of receipt of written demand from Lender to do so.

8.4.4 Although this Mortgage constitutes as absolute, present and current assignment of all Income, as long as no event of default as described in Section 10 on the part of the Mortgagor shall have occurred, Lender shall not demand that such Income be

paid directly to Lender, 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).

9. RELEASE ON FULL PERFORMANCE. If Mortgagor pays all of the Indebtedness when due and otherwise performs all the obligations imposed upon Mortgagor under this Mortgage, Lender 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.

10. DEFAULT. The following shall constitute events of default:

- (a) Failure of Mortgagor to pay 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, insurance, or any other payment necessary to prevent filing or discharge of any lien (or within such time discharge or bond such lien in the manner permitted in Section 3.2 above).
- (c) Transfer or agreement to transfer any part or interest in the Property without the prior written consent of Lender, as required under Section 7 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) Any breach of any representation or warranty in the Environmental Agreement.
- (f) Failure of Mortgagor to perform any other obligation under this Mortgage or the Environmental Agreement within 15 days after receipt of written notice from Lender specifying the nature of the default or, if the default cannot be cured within 15 days, failure within such time to initiate steps which Lender deems in Lender's sole discretion to be sufficient to cure the default and thereafter continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practicable. No notice of default and no opportunity to cure shall be required if during the prior 12 months Lender has already sent a notice to Mortgagor concerning default in performance of the same obligation.
- (g) Any use of Loan proceeds other than for agricultural business purposes.

11. RIGHTS AND REMEDIES ON DEFAULT.

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

- (a) Lender may declare the entire Indebtedness immediately due and payable.
- (b) Lender may obtain a decree foreclosing Mortgagor's interest in all or any part of the Property. If permitted by applicable law, Lender may foreclose Mortgagor's interest in all or any part of the Property by nonjudicial sale.
- (c) If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender 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, Lender may exercise the rights and remedies of a secured party under the Uniform Commercial Code. Lender shall have the option of proceeding as to the Real Property and all or some of the Personal Property in accordance with the unified sale procedures set forth in the Uniform Commercial Code as adopted in Oregon.
- (e) Lender shall have the right, without notice to Mortgagor to take possession of the Property, to collect the Income, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user to make payments of rent or use fees directly to Lender. If the Income is collected by Lender, then Mortgagor irrevocably designates Lender 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 Lender in response to Lender's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this paragraph either in person, by agent or through a receiver.
- (f) Lender 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. Lender'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 Lender 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 Lender otherwise becomes entitled to possession of the Property upon default of Mortgagor, Mortgagor shall become a tenant at will of Lender or the purchaser of the Property and shall pay a reasonable rental for use of the Property while in Mortgagor's possession.
- (h) Lender shall have any other right or remedy provided in this Mortgage, the Note or any other instrument delivered by Mortgagor in connection therewith, or available at law, in equity or otherwise.

11.2 Rights of Receiver or Lender-in-Possession. Upon taking possession of all or any part of the Property, the receiver or Lender 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 Lender'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 Lender deems appropriate.

If the revenues produced by the Property are insufficient to pay expenses, the receiver may borrow, from Lender (if Lender, in its sole discretion, agrees to lend) or otherwise, or Lender may borrow or advance, such sums as the receiver or Lender 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 12.4 below. Such sums shall become a part of the Indebtedness secured by this Mortgage and shall be payable by Mortgagor on demand.

11.3 Sale of the Property. In exercising its rights and remedies, Lender 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. Lender may bid at any public sale on all or any portion of the Property.

11.4 Notice of Sale. Lender 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.

11.5 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 Lender to pursue any remedy shall not exclude pursuit of any other remedy, and all remedies of Lender 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 Lender's right to declare a default and exercise its remedies under this Mortgage.

11.6 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 in exercising any of its remedies hereunder, including nonjudicial foreclosure or requested relief from the automatic stay in bankruptcy proceedings, otherwise 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 Lender that are necessary at any time in Lender'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 12.4 below. Expenses covered by this paragraph include (without limitation) the cost of searching records and obtaining title reports, surveyors' reports, attorneys' opinions and title insurance.

12. MISCELLANEOUS.

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

12.2 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.

12.3 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.

12.4 Expenditure by Lender. If Mortgagor fails to comply with any provision of this Mortgage, Lender may elect to take the required action on Mortgagor's behalf, and any amount that Lender 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 Rate (as specified in the Note). Such action by Lender shall not constitute a cure or waiver of the default or any other right or remedy which Lender may have on account of Mortgagor's default.

12.5 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.

12.6 Modification or Extension of Indebtedness; Release of Obligors. The taking by Mortgagor of any additional security, the release of any person now or hereafter liable for the repayment of the Indebtedness, or any extension of the time of payment of the Indebtedness or the renewal thereof, shall not diminish the effectiveness of this Mortgage or the lien of this Mortgage and shall not affect or impair the liability of any maker, surety or endorser for the payment of the Indebtedness.

12.7 Release of Security. Lender shall have the right to release, with or without consideration or credit on the Indebtedness secured, any part of the Property. Without regard to the existence of any junior encumbrance and without the consent of such junior encumbrance, and such release shall have no further effect upon the rank, lien or estate conveyed of this Mortgage.

12.8 Waiver of Marshalling and Homestead Rights. Mortgagor expressly waives, to the full extent permitted by law, and relinquishes any right to claim a marshalling of assets in respect to the Property, or any part thereof, in the event of the foreclosure or other enforcement of this Mortgage. Mortgagor expressly waives any and all homestead and exception rights now or hereafter available under Oregon or federal law.

12.9 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.

12.10 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 Lender relating to this Mortgage shall be superior to the rights of the holder of any intervening lien or encumbrance.

12.11 Exhibits. The following exhibits are attached to this Mortgage and incorporated herein by reference:

Exhibit A - Real Property
Exhibit B - Certain Equipment
Exhibit C - Certain Water Rights

12.12 Applicable Law. The law of the State of Oregon, including applicable federal law, 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 Lender on default.

12.13 Jurisdiction. In the event of a lawsuit relating to, or to enforce, this Mortgage, Mortgagor agrees upon Lender's request to submit to the jurisdiction of the courts of Klamath County, State of Oregon.

12.14 Loan Purpose. The Mortgagor acknowledges that the proceeds of the Note are primarily for agricultural, commercial, investment or business purposes, and are not for a consumer transaction (which is defined as a transaction primarily for personal, family or household purposes).

12.15 Dissemination of Information. If the Lender determines at any time to sell, transfer or assign the Note, this Mortgage and any other security instruments, and any or all servicing rights with respect thereto, or to grant participations therein or issue, in a public offering or private placement, mortgage pass-through certificates or other securities evidencing a beneficial interest in the loan, Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor, or their respective successors in such Participations and/or Securities, any rating agency rating such Securities and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Indebtedness and to the Mortgagor, any guarantor, any indemnitors and the Property, which shall have been furnished by Mortgagor, any guarantor or any indemnitors, as Lender determines necessary or desirable.

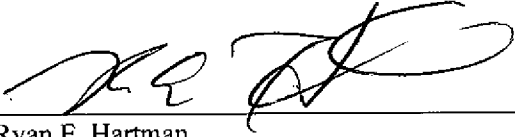
12.16 Counterparts. If Mortgagor consists of two or more individuals or entities, this agreement may be executed in any number of counterparts and any party hereto may execute any counterpart, each of which when executed and delivered shall be deemed to be an original and all of which, taken together, shall be deemed to be but one and the same instrument

12.17 Covenants Run with the Land. All of the grants, covenants, terms, provisions and conditions herein contained shall run with the Real Property and shall apply to, bind and inure to the benefit of, the successors and assigns of Mortgagor and Lender.

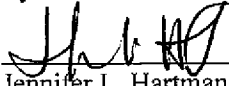
WARNING: UNLESS YOU (MORTGAGOR) PROVIDE US (LENDER) WITH EVIDENCE OF THE INSURANCE COVERAGE AS REQUIRED BY OUR CONTRACT OR LOAN AGREEMENT, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTEREST. THIS INSURANCE MAY, BUT NEED NOT, ALSO PROTECT YOUR INTEREST. IF THE COLLATERAL BECOMES DAMAGED, 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.

[signatures and acknowledgments follow]

MORTGAGOR:



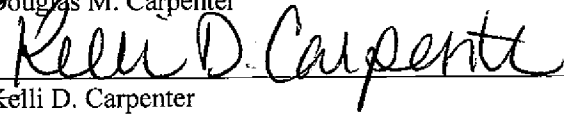
Ryan E. Hartman



Jennifer L. Hartman

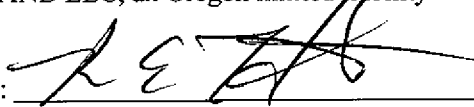


Douglas M. Carpenter

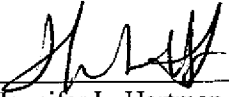


Kelli D. Carpenter

CK & M LAND LLC, an Oregon limited liability
company

By: 

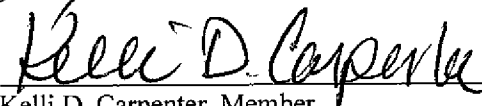
Ryan E. Hartman, Member

By: 

Jennifer L. Hartman, Member

By: 

Douglas M. Carpenter, Member

By: 

Kelli D. Carpenter, Member

ACKNOWLEDGMENT

STATE OF OREGON

COUNTY OF Clatsop } ss.

This instrument was acknowledged before me on January 12, 2022, by Ryan E. Hartman.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON

COUNTY OF Clatsop } ss.

This instrument was acknowledged before me on January 12, 2022, by Jennifer L. Hartman.

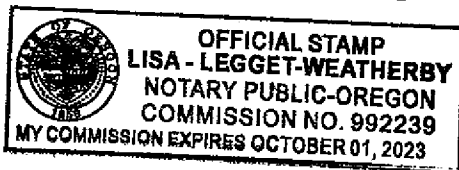


Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON

COUNTY OF Clatsop } ss.

This instrument was acknowledged before me on January 12, 2022, by Douglas M. Carpenter.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON

COUNTY OF Clatsop } ss.

This instrument was acknowledged before me on January 12, 2022, by Kelli D. Carpenter.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON
COUNTY OF Hlamuth } ss.

This instrument was acknowledged before me on January 12, 2022, by Ryan E. Hartman, as Member of CK & M LAND LLC, an Oregon limited liability company.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON
COUNTY OF Hlamuth } ss.

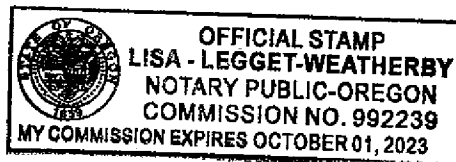
This instrument was acknowledged before me on January 12, 2022, by Jennifer L. Hartman, as Member of CK & M LAND LLC, an Oregon limited liability company.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON
COUNTY OF Hlamuth } ss.

This instrument was acknowledged before me on January 12, 2022, by Douglas M. Carpenter, as Member of CK & M LAND LLC, an Oregon limited liability company.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

STATE OF OREGON
COUNTY OF Hlamuth } ss.

This instrument was acknowledged before me on January 12, 2022, by Kelli D. Carpenter, as Member of CK & M LAND LLC, an Oregon limited liability company.



Lisa Legget-Weatherby
Notary Public
My commission expires: 10/1/2023
Commission No.: 992239

**EXHIBIT A
TO MORTGAGE**

Legal Description

PARCEL A:

Unsurveyed Parcels 1 and 2, Land Partition 26-10, being a replat of Parcel 2 of Land Partition 25-96 and Parcel 1 of Land Partition 63-07, being situated in the SE1/4 of Section 13, the SE1/4 of Section 14, the E1/2 of Section 23, N1/2 and SW1/4 of Section 24, Township 30 South, Range 10 East of the Willamette Meridian and the SW1/4 of Section 18,, Township 30 South, Range 11 East of the Willamette Meridian and duly recorded November 23, 2010 in 2010-013537, Microfilm Records of Klamath County, Oregon.

Parcel 1 being more particularly described as follows:

BEGINNING AT THE SECTION CORNER COMMON TO SAID SECTIONS 13 AND 24, T30S, R10EWM, AND SECTION 19 AND SAID SECTION 18 OF T30S, R11EWM; THENCE S00°05'09"W 2645.82 FEET TO THE 1/4 CORNER COMMON TO SAID SECTIONS 24 AND 19; THENCE WEST 5428 FEET, MORE OR LESS, TO THE 1/4 CORNER COMMON TO SAID SECTIONS 23 AND 24; THENCE S00°00'20"W 663.13 FEET TO THE N-S 1/64 CORNER COMMON TO SAID SECTIONS 23 AND 24; THENCE N89°36'52"W 1322.33 FEET TO THE C-N-SE 1/64 CORNER OF SAID SECTION 23; THENCE N00°03'43"W 663.16 FEET TO THE C-E 1/16 CORNER OF SAID SECTION 23; THENCE N89°36'48"W 661.49 FEET TO THE C-W-E 1/64 CORNER OF SAID SECTION 23; THENCE N00°05'20"W 1299.63 FEET TO THE C-W-SE 1/64 CORNER OF SAID SECTION 23; THENCE S89°37'05"W 662.13 FEET TO THE C-N 1/16 CORNER OF SAID SECTION 23; THENCE N00°07'06"W 1290.76 FEET TO THE 1/4 CORNER COMMON TO SAID SECTIONS 23 AND 14; THENCE NORTH, ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 14, 1540 FEET, MORE OR LESS, TO THE THREAD OF THE WILLIAMSON RIVER, SAID POINT ALSO BEING ON THE BOUNDARY OF PARCEL 2 OF "LAND PARTITION 63-07"; THENCE, ALONG THE BOUNDARY OF SAID PARCEL 2, THE FOLLOWING COURSES, SOUTHEASTERLY, ALONG THE THREAD OF THE WILLIAMSON RIVER, 2620 FEET, MORE OR LESS, TO ITS INTERSECTION WITH THE EXTENSION OF AN EXISTING FENCE LINE; N68°00'15"E, ALONG THE SAID FENCE LINE AND ITS EXTENSION, 1676 FEET, MORE OR LESS, TO AN ANGLE POINT IN THE SAID FENCE LINE; S89°27'38"E, ALONG THE EXISTING FENCE LINE, 4000.29 FEET TO AN ANGLE POINT IN THE SAID FENCE LINE; N50°10'21"E, ALONG THE SAID FENCE LINE, 206.01 FEET TO AN ANGLE POINT IN THE SAID FENCE LINE; N57°04'57"E, ALONG THE SAID FENCE LINE, 183.63 FEET TO AN ANGLE POINT IN THE SAID FENCE LINE AND N25°24'18"E, ALONG THE SAID FENCE LINE, 1179.97 FEET TO A POINT ON THE SOUTH BOUNDARY OF PARCEL 1 OF "LAND PARTITION 66-97"; THENCE EAST, ALONG THE SAID SOUTH BOUNDARY, 3208.41 FEET TO A POINT ON THE NORTH- SOUTH CENTERLINE OF SAID SECTION 18, FROM WHICH THE CENTER 1/4 CORNER OF SAID SECTION 18 BEARS N00°08'00"E 1260 FEET; THENCE S00°08'00"W, ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 18, 1380 FEET, MORE OR LESS, TO THE 1/4 CORNER COMMON TO SAID SECTIONS 18 AND 19; THENCE S89°50'12"W 2649.46 FEET TO THE POINT OF BEGINNING WITH BEARINGS BASED ON THE PLAT OF SAID "LAND PARTITION 26-10" ON FILE AT THE OFFICE OF THE KLAMATH COUNTY CLERK.

EXCEPTING THEREFROM, A PARCEL OF LAND SITUATED IN THE SE1/4 SE1/4 OF SECTION 13, T30S, R10EWM, KLAMATH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE NORTH 100 FEET; THENCE WEST 100 FEET; THENCE SOUTH 100 FEET; THENCE EAST 100 FEET TO THE POINT OF BEGINNING.

Parcel 2 being more particularly described as follows:

THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 30 SOUTH, RANGE 10 EAST, OF THE WILLAMETTE MERIDIAN, KLAMATH COUNTY, OREGON.

PARCEL B:

Parcel 3 of Land Partition 25-96, situated in the SW1/4 of Section 18, the W1/2 of Section 19, Township 30 South, Range 11 East and the E1/2 of Section 23, S1/2 of Sections 13 and 14 and the W1/2 and NE1/4 of Section 24, Township 30 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPTING FROM said Parcel 3 of Land Partition 25-96 the NE1/4 of the SW1/4 of Section 19, Township 30 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, conveyed to R. Raymond Royse and Jessie P. Royse, Trustees under the Royse Loving Trust dated July 27, 1992, by Warranty Deed recorded June 30, 2000 in Volume M00, page 24239, Microfilm Records of Klamath County, Oregon.

TOGETHER WITH an easement for vehicular and public utility access as created by instrument recorded January 6, 1997 in Volume M97, page 239 and re-recorded January 23, 1997 in Volume M97, page 2057, Microfilm Records of Klamath County, Oregon.

PARCEL C:

The SE1/4 of Section 18, Township 30 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL D:

Government Lot 3 of Section 19, Township 30 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon.

PARCEL E:

NE1/4 of the SW1/4 of Section 19, Township 30 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, being a portion of Parcel 3 of Land Partition 25-96 situated in the SW1/4 of Section 18, the W1/2 of Section 19, Township 30 South, Range 11 East of the Willamette Meridian and the E1/2 of Section 23, S1/2 of Sections 13 and 14 and the W1/2 and NE1/4 of Section 24, Township 30 South, Range 10 East of the Willamette Meridian, Klamath County, Oregon.

**EXHIBIT B
TO MORTGAGE**

Certain Equipment

Name CK & M Land, LLC, Douglas & Kelli Carpenter and Ryan & Jennifer Hartman
County, State Klamath, OR
Acres 1,166.91

MANUFACTURED HOMES

<u>HOME ID NO</u>	<u>MANUFACTURER</u>	<u>MAKE/MODEL</u>	<u>SERIAL NUMBER</u>	<u>YEAR BUILT</u>
Tract I. - Williamson River Property				
146694	Karsen Co	unknown	TKCSTOR210426349A	2004
			TKCSTOR210426349B	

Exhibit B

Loan No. 22105636

**EXHIBIT C
TO MORTGAGE**

Certain Water Rights

CK & M Land, LLC, Douglas & Kelli Carpenter and Ryan & Jennifer Hartman
Klamath, OR

		Amount	Primary	Water Right	Priority	Application	Permit	Certificate	Permittee
Section	Source	(CFS)	Acres	Date	Number	Number	Number	Number	Name
Tract I. - Williamson River Property									
19	Irving Creek / Jackson Creek	3.50	8.80	10-14-1864		Claim KA 12			G Bar W Land & Cattle Co.
24	Irving Creek / Jackson Creek	3.50	144.80	10-14-1864		Claim KA 12			G Bar W Land & Cattle Co.
14	Williamson Rvr/Jackson Crk	1.04	6.00	02/08/1957	S30437	S24669	33063		Everett Dennis
23	Williamson Rvr/Jackson Crk		91.60	02/08/1957	S30437	S24669	33063		Everett Dennis
24	Williamson Rvr/Jackson Crk		0.70	02/08/1957	S30437	S24669	33063		Everett Dennis
19	Williamson Rvr/Irving Crk	4.2/7.8	12.20	08/26/1987	S69256	S50262	85533		G Bar W Land & Cattle Co.
23	Williamson Rvr/Irving Crk	4.2/7.8	38.10	08/26/1987	S69256	S50262	85533		G Bar W Land & Cattle Co.
24	Williamson Rvr/Irving Crk	4.2/7.8	384.00	08/26/1987	S69256	S50262	85533		G Bar W Land & Cattle Co.
SubTotal - Tract I			686.20						
Less overlapping water rights			(123.00)						
SubTotal - Tract I - final			563.20						
Tract II. - Purchase Property									
19	Irving Creek	0.85	31.20	10-14-1864		Claim KA 267			Royse Loving Trust
SubTotal - Tract II			31.20						
Total Acres			594.40						

Exhibit C

113722885.1 0076205-00008

Loan No. 22105636