

RECEIVED

NOV 29 2012

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPT. OF WATER RESOURCES
SOUTHERN REGION**Notice of Security Interest in a Water Right****And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right**

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

Incomplete forms will be returned.

45-13504; 45-2265; 45-2578; 45-2597; 45-13627; 45-13628; 45-14060; 45-2608B; 45-7086B;

1. Water Right No(s): 45-7179; 45-14100; 45-13543; 45-7062; 45-7063; 45-7182; 45-14090

Adjudication Claim No(s): _____

2. The following **REQUIRED** information must be submitted with this form:A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**B) A **FEE** of **\$25.00** per water right or adjudication claim.

3. Name and Mailing Address of Person or Company holding Security Interest

John and Ruth Beukers711 River View Dr.Twin Falls, ID 833014. Name of Water Right Owner/Claimant(s) PKD Properties, L.C., an Idaho limited liability company and
T.L.D. Properties, LLC, an Idaho limited liability company5. Expiration Date of Notification Period November 7, 20226. Is this a Renewal of Request for Notification? ☐ YES ☒ NO7. Signature(s) of Security Interest holder(s) John Beukers
(and title if applicable) Ruth Beukers**For Office Use Only**Received by _____ Date _____ Fee \$775- total
Received by DM Date 11-29-2012 Receipt No. 5032927
Processed by _____ AJ Date _____ WR _____ Date _____

SUPPORT DATA

IN FILE # 45-2265

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DEPT. OF WATER RESOURCES
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45-7086D; 45-13788; 45-10761; 45-14061; 45-14091; 45-14101; 45-2395; 45-2492; 45-2551B;

1. Water Right No(s): 45-2665; 45-2666; 45-2667; 45-7086F; 45-13475; 45-2391

Adjudication Claim No(s): _____

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(and title if applicable) Ruth Beukers**For Office Use Only**Received by _____ Date _____ Fee \$775 - total
Received by DM Date 11-29-2012 Receipt No. 5032927
Processed by _____ AJ Date _____ WR _____ Date _____

SUPPORT DATA

IN FILE # 45 - 2265

RECORDING REQUESTED BY)
AND WHEN RECORDED RETURN TO:)
Wright Brothers Law Office, PLLC)
P.O. Box 226)
Twin Falls, ID 83303-0226)

#48992

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

This Mortgage, Security Agreement and Assignment of Rents (the "Mortgage") is made as of this 7th day of November, 2012 by PKD Properties, L.C., an Idaho limited liability company whose address is 1404 E. 500 N., Jackson, ID 83350 ("PKD Properties"), T.L.D. Properties, LLC, an Idaho limited liability company whose address is 1404 E. 500 N., Jackson, ID 83350 ("TLD Properties," and together with PKD Properties, the "Mortgagor") in favor of John Beukers and Ruth Beukers, husband and wife whose address is 711 River View Dr., Twin Falls, ID 83301 (collectively, the "Mortgagee");

WITNESSETH:

Mortgagor, for valuable consideration, the receipt of which is hereby acknowledged, and in consideration of and to secure repayment in accordance with the terms of the Promissory Note of the Mortgagor dated as of the date hereof in the principal amount of ~~Eight Million Nine Hundred Thousand and No/100ths Dollars (\$8,900,000.00)~~ and the Promissory Note of the Mortgagor dated as of the date hereof in the principal amount of ~~Five Hundred Thousand and No/100ths Dollars (\$500,000.00)~~, does hereby irrevocably, GRANT, BARGAIN, SELL, CONVEY, MORTGAGE, ASSIGN, PLEDGE, TRANSFER AND SET OVER unto Mortgagee and to its successors and assigns, (a) real property situated in Cassia County, Idaho and legally described on Exhibit A hereto, together with all improvements thereon and appurtenances thereto (collectively, the "Real Property"), (b) the irrigation equipment, dairy equipment and other items of personal property located on the Real Property described on Exhibit B hereto (the "Personal Property"), (c) all water rights appurtenant to the Real Property described on Exhibit C hereto (collectively, the "Water Rights"), and (d) any CAFO permit and application for CAFO permit appurtenant to the Real Property as described on Exhibit D hereto (collectively, the "CAFO Rights," and together with the Real Property, the Personal Property and the Water Rights, whether now owned or hereafter acquired, the "Property");

TOGETHER WITH all leasehold estate, right, title and interest of Mortgagor in, to or under all leases (including grazing permits, leases and oil and gas leases) or subleases covering the Property or any portion thereof during the period in which this Mortgage is in effect, whether now or hereafter existing or entered into, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, and all tenements, hereditaments and appurtenances thereof and thereto; and all water, water rights, water appropriations, irrigation works, lines, pivots, drip lines, hand lines, wheel lines, pumps, motors, equipment and electric panels of every kind and nature, ditches, canals, wells, franchises upon, leading to or connected with said property, in addition to any replacements, substitutions and additions thereto, and all other rights and privileges now or hereafter owned by Mortgagor, or belonging to, with, leading to, connected with, or usually had or enjoyed in connection with the Property or appurtenant thereto, whether represented by shares of capital stock in any ditch company, irrigation company, irrigation district or water association, by voting or other rights or interests with respect thereto or by actual individual ownership, or which may hereafter be acquired by Mortgagor, during the existence of this Mortgage;

TOGETHER WITH all right, title and interest of Mortgagor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any road adjoining the Property

TOGETHER WITH any and all buildings, structures, fences, pipelines, pipes, tanks, dams, reservoirs, pumps, pumping equipment and all other improvements and fixtures now located or hereafter erected thereon or used in connection therewith, including, but not limited to, the fixtures, attachments, equipment, machinery, and other articles attached to said buildings and improvements (collectively, the "Improvements"), but not including farm machinery and vehicles;

TOGETHER WITH, all the estate, interest, right, title, other claim or demand, including claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Mortgagor now has or may hereafter acquire in the Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Mortgaged Property; and

TOGETHER WITH all accounts arising out of, or in connection with, the Property (including all leases, bonuses, royalties, subleases, franchises, rents, issues, profits and income in connection with the Property, and all the estate, right, title and interest of every nature whatsoever of the Mortgagor in and to the same), whether now owned or hereafter acquired. Mortgagor will execute such assignments as Mortgagee may from time to time reasonably request, which shall include, but not be limited to, assignments of rents, issues and profits in reasonable form acceptable to Mortgagee. Mortgagor shall pay the cost of recording any such assignments. Mortgagee is authorized to notify any or all lessees, tenants or occupants of all or part of said Property of the assignment of rents, issues or profits made hereunder or under any such special assignments. Mortgagee shall have no personal liability and shall not be responsible for the performance of Mortgagor's covenants under any of said leases or rentals. Mortgagee shall not be liable to Mortgagor for any action taken or omitted in connection with any such leases or rentals or the operation of said Property. Until the occurrence of a default as hereinafter provided, Mortgagor may use and occupy the Property and receive all rents, issues and profits thereof.

The entire estate, property (both real and personal) and interest hereby conveyed to Mortgagee may hereafter collectively be referred to as the "Mortgaged Property." All property except the real property may hereinafter be referred to as the "Personal Property." Personal Property does not include farm machinery, vehicles, livestock, household furnishings, household appliances or unattached household fixtures, or any income therefrom.

FOR THE PURPOSE OF SECURING:

- (a) Payment of indebtedness in the total principal amount of ~~Five Million Four Hundred Thousand and No/100ths Dollars (\$5,400,000.00)~~ ~~Four Million Two Hundred and No/100ths Dollars (\$4,200,000.00)~~ ~~Three Million and No/100ths Dollars (\$3,000,000.00)~~ ~~Two Million and No/100ths Dollars (\$2,000,000.00)~~ ~~One Million and No/100ths Dollars (\$1,000,000.00)~~ ~~Five Hundred Thousand and No/100ths Dollars (\$500,000.00)~~ ~~Two Hundred and No/100ths Dollars (\$200,000.00)~~ ~~One Hundred and No/100ths Dollars (\$100,000.00)~~ together with interest on the unpaid balance thereof, evidenced by (i) a Promissory Note of the Mortgagor of even date herewith in the principal amount of ~~Four Million Two Hundred and No/100ths Dollars (\$4,200,000.00)~~ ~~Three Million and No/100ths Dollars (\$3,000,000.00)~~ ~~Two Million and No/100ths Dollars (\$2,000,000.00)~~ ~~One Million and No/100ths Dollars (\$1,000,000.00)~~ ~~Five Hundred Thousand and No/100ths Dollars (\$500,000.00)~~ ~~Two Hundred and No/100ths Dollars (\$200,000.00)~~ ~~One Hundred and No/100ths Dollars (\$100,000.00)~~ with a final maturity date on the tenth anniversary hereof (the "First Note"); and (ii) a Promissory Note of the Mortgagor of even date herewith in the principal amount of ~~Five Hundred Thousand and No/100ths Dollars (\$500,000.00)~~ ~~Two Hundred and No/100ths Dollars (\$200,000.00)~~ ~~One Hundred and No/100ths Dollars (\$100,000.00)~~ with a final maturity date on the fifth anniversary hereof (the "Second Note," and together with the First Note, the "Notes," and each, a "Note"), executed by Mortgagor, which have been delivered to and is payable to the order of Mortgagee, and which by this reference are hereby made a part hereof, together with any and all modifications, extensions and renewals thereof; both principal and interest and all other indebtedness accruing hereunder or thereunder being payable in lawful money of the United States which shall be legal tender for the payment of all debts and dues, public and private, at the time of payment, at the address set forth on the Notes.
- (b) Performance of all obligations of Mortgagor (and each of them) under the Notes and this Mortgage, the "Credit Documents").
- (c) Payment of all sums advanced by Mortgagee to protect the Mortgaged Property, with interest thereon at the rates set forth in the First Note.
- (d) Performance of all obligations of any guarantor of any of the obligations of Mortgagor (or any of them) contained in the Credit Documents or any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby or thereby.

TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR HEREBY COVENANTS AND AGREES:

ARTICLE I

COVENANTS AND AGREEMENTS OF MORTGAGOR

Mortgagor hereby represents, covenants and agrees:

- 1.01 Title. That at the time of delivery hereof, Mortgagor is the lawful owner of the property hereinabove granted, and is seized of good, marketable and indefeasible title in fee simple therein, free and clear of all encumbrances (other than (i) a mortgage in favor of Rabo AgriFinance, Inc. ("Rabo") in an aggregate amount not to exceed Thirty-One Million Six Hundred Twenty-Seven Thousand Nine Hundred and No/100ths Dollars (\$31,627,900.00) (the "Rabo Mortgage"), and (ii) the Purchase Money Mortgage in favor of C. Gordon Luke and Eola D. Luke, husband and wife (collectively, "Luke") dated January 30, 2007 and recorded in Cassia County, Idaho as Instrument No. 313623 (as amended, supplemented and in effect from time to time, the "Luke Mortgage," and together with the Rabo Mortgage, the "Permitted Encumbrances"), and that Mortgagor will warrant and defend the same in the quiet and peaceful possession of the Mortgagee, its successors and assigns, forever, against the claims of all persons whomsoever.
- 1.02 Payment of Secured Obligations. That Mortgagor has executed and delivered to Mortgagee the Notes; that Mortgagor has executed and delivered to Mortgagee this Mortgage; that Mortgagor shall pay when due the principal of, and the interest on, the indebtedness evidenced by the Notes, charges, fees and all other sums as provided in the Credit Documents, and the principal of, and interest on, any future advances secured by this Mortgage.
- 1.03 Maintenance, Repair, Alterations and Good Standing. To keep the Mortgaged Property in good condition and repair, not to remove, demolish or substantially alter (except such alterations as may be required by laws, ordinances or regulations) any of the Improvements; to complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Mortgaged Property and promptly restore in like manner any Improvement which may be damaged or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefore, to comply with all laws, ordinances, regulations, covenants, conditions and restrictions now or hereafter affecting the Mortgaged Property or any part thereof; not to commit, suffer or permit any waste or deterioration of the Mortgaged Property; not to commit, suffer or permit any act to be done in or upon the Mortgaged Property in violation of any law, ordinance or regulation; in the event the Mortgagor is a corporation, partnership, limited liability company, cooperative, business trust or other entity, to keep the Mortgagor in existence and in good standing.
- 1.04 Required Insurance. To at all times provide, maintain and keep in force the following policies of insurance:
- (a) If Mortgagor constructs or installs improvements on the Property that were not existing on the Property on the date of this Mortgage, then Mortgagee may require that Mortgagor keep and maintain in force with respect to said improvements such of the following policies of insurance ("insurance" or "policies of insurance") as may be reasonably requested. Insurance may,

in the discretion of Mortgagor, be in the form of individual policies or blanket policies covering other improvements.

- (b) Physical hazard insurance covering the perils of fire, flood, tornado, lightning, and extended coverage in an amount equal to at least the full insurable value of the Mortgaged Property, and such additional coverage as Mortgagee may from time to time reasonably require.
- (c) Such other insurance, and in such amounts, as may from time to time reasonably be required by Mortgagee against the same or other hazards.
- (d) All policies of insurance required by the terms of this Mortgage shall contain an endorsement or agreement by the insurer that any loss shall be payable in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagor which might otherwise result in forfeiture of said insurance and the further agreement of the insurer waiving all rights of setoff, counterclaim or deductions against Mortgagor.

1.05 Delivery of Policies. Payment of Premiums. That all policies of insurance shall be issued by companies and in amounts in each company satisfactory to Mortgagee. All policies of insurance shall have attached thereto a lender's loss payable endorsement for the benefit of Mortgagee in form satisfactory to Mortgagee. Mortgagor shall furnish Mortgagee copies of all policies of required insurance. All such policies shall contain a provision that such policies will not be canceled or materially amended, which term shall include any reduction in the scope or limits of coverage, without at least thirty (30) days' prior written notice to Mortgagee. In the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Mortgagee the policies of insurance required by this Section, Mortgagee may procure such insurance or single-interest insurance for such risks covering Mortgagee's interest, and Mortgagor will pay all premiums thereon promptly upon demand by Mortgagee, and until such payment is made by Mortgagor the amount of all such premiums together with interest thereon at the rate provided in the First Note shall be secured by this Mortgage.

1.06 Insurance Proceeds. That after the happening of any casualty to the Mortgaged Property or any part thereof, Mortgagor shall give prompt written notice thereof to Mortgagee.

- (a) In the event of any damage or destruction of the Improvements, Mortgagee shall have the option in its sole discretion of applying all or part of the insurance proceeds (i) to any indebtedness secured hereby and in such order as Mortgagee may determine, (ii) to the restoration of the Improvements, provided the Improvements are restored to good working condition, or (iii) to Mortgagor; provided that at Mortgagor's election, the insurance proceeds shall be applied to restoration of the Improvements if Mortgagor is not then in default under the Notes or the other Credit

Documents, and establishes to Mortgagee's reasonable satisfaction that the insurance proceeds together with Mortgagor's other resources, if required, would be sufficient to restore the Improvements to a condition satisfactory for operation of Mortgagor's farming business.

- (b) With respect to casualty losses in excess of \$25,000, all proceeds of insurance shall be payable to Mortgagee, and Mortgagor hereby authorizes and directs any affected insurance company to make payment of such proceeds directly to the Mortgagee. After applying the proceeds in accordance with Section 1.06(a) above, the balance of such proceeds, if any, shall be promptly paid to Mortgagor. Mortgagee is hereby authorized and empowered by Mortgagor to settle, adjust or compromise any claims for loss, damage or destruction under any policy or policies of insurance.
- (c) Except to the extent that insurance proceeds are received by Mortgagee and applied to the indebtedness secured hereby, nothing herein contained shall be deemed to excuse Mortgagor from repairing or maintaining the Mortgaged Property or restoring all damage or destruction to the Mortgaged Property, regardless of whether or not there are insurance proceeds available or whether any such proceeds are sufficient in an amount, and the application or release by Mortgagee, of any insurance proceeds shall not cure or waive any default or notice of default under this Mortgage or invalidate any act done pursuant to such notice.

1.07 Assignment of Policies Upon Foreclosure. That in the event of foreclosure of this Mortgage or other transfer of title or assignment of the Mortgaged Property in extinguishment, in whole or in part, of the debt secured hereby, all right, title and interest of Mortgagor in and to all policies of insurance required by this Section shall inure to the benefit of and pass to the successor in interest to Mortgagor or the purchaser or grantee of the Mortgaged Property.

1.08 Indemnification; Subrogation; Waiver:

- (a) If Mortgagee or any of its members, officers, employees and agents (each in its capacity as an indemnified party, a "Mortgagee Indemnatee") is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, concerning this Mortgage or the Mortgaged Property or any part thereof or interest therein or the occupancy thereof by Mortgagor, then Mortgagor shall indemnify, defend, protect and hold harmless each Mortgagee Indemnatee from and against any and all claims, losses, liabilities, damages, assessments, adjustments, costs and expenses (including specifically, but without limitation, attorneys' fees and expenses of investigation incurred by counsel of such Mortgagee Indemnatee's choosing) (collectively, "Damages") incurred by such Mortgagee Indemnatee in connection with such suit or proceeding,

unless such Damages arise as a direct result of the gross negligence or willful misconduct of the Mortgagee. If Mortgagee commences an action against Mortgagor to enforce any of the terms hereof or because of the breach by Mortgagor of any of the terms hereof, or for the recovery of any such secured hereby, Mortgagor shall pay to Mortgagee attorney's fees and expenses, and the right to such attorney's fees and expenses shall be deemed to have accrued on the commencement of such action, and shall be enforceable whether or not such action is prosecuted to judgment. If Mortgagor breaches any term of this Mortgage, Mortgagee may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Mortgagor, Mortgagor shall pay Mortgagee attorney's fees and expenses incurred by Mortgagee, whether or not an action is actually commenced against Mortgagor by reason of breach.

- (b) Mortgagor waives any and all right of claim or recovery against Mortgagee, its members, officers, employees and agents, for loss of or damage to Mortgagor, the Mortgaged Property, Mortgagor's property or the property of others under Mortgagor's control from any cause insured against or required to be insured against by the provisions of this Mortgage.
- (c) All sums payable by Mortgagor hereunder shall be paid without notice, demand counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities of Mortgagor hereunder shall in no way be released, discharged or otherwise affected (except as expressly provided herein) by reason of:
 - (i) any damage to or destruction of or any condemnation or similar taking of the Mortgaged Property or any part thereof; (ii) any restriction or prevention of or interference with any use of the Mortgaged Property or any part thereof; (iii) any title defect or encumbrance or any eviction from the Property or the Improvements or any part thereof by title paramount or otherwise; (iv) subject to provisions of applicable law, any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Mortgagee, or any action taken with respect to this Mortgage by any trustee or receiver of Mortgagee, or by any court, in any such proceeding; (v) any claim which Mortgagor has or might have against Mortgagee or Mortgagor (or any of them); (vi) any default or failure on the part of Mortgagee to perform or comply with any of the terms hereof or of any other agreement with Mortgagor (or any of them); or (vii) any other occurrence whatsoever, whether similar or dissimilar to the foregoing, whether or not Mortgagor shall have notice or knowledge of any of the foregoing. Except as expressly provided herein, and except as otherwise prohibited by applicable law, Mortgagor waives all rights now or hereafter conferred by

statute or otherwise to any abatement, suspension, deferment, diminution or reduction of any sum secured hereby and payable by Mortgagor.

- (d) To the extent applicable and permitted by law, the Mortgagor waives all homestead exemption rights relating to the Mortgaged Property.
- (e) To the extent permitted by law, the Mortgagor expressly agrees that the Notes, or any payment thereunder, may be extended from time to time, or the terms of payment or interest may otherwise be varied by agreement with the Mortgagor and the Mortgagee, without in any way affecting the obligations of the Mortgagor hereunder or the lien, encumbrance and security interest created hereby.

1.09 Taxes and Impositions.

- (a) Mortgagor agrees to pay, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including without limitation payments with respect to water rights (collectively, the "Impositions"); *provided, however,* that if, by law, any such Imposition is payable, or may at the option of the taxpayer be paid, in installments, Mortgagor may pay the same together with any accrued interest on the unpaid balance of such Imposition in installments as the same become due and before any fine, penalty, interest or cost may be added thereto for the nonpayment of any such installment and interest.
- (b) Mortgagor covenants to furnish Mortgagee within forty-five (45) days after the date upon which any such Imposition is due and payable by Mortgagor, official receipts of the appropriate taxing authority, or other proof satisfactory to Mortgagee, evidencing the payments thereof.
- (c) Mortgagor shall have the right before any delinquency occurs to contest or object to the amount or validity of any such Imposition by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving, modifying or extending Mortgagor's covenant to pay any such Imposition at the time and in the manner provided in this Section.

1.10 Power and Utilities. Mortgagor agrees to pay when due all power and utility charges which are incurred by Mortgagor for the benefit of the Mortgaged Property or which may become a charge or lien against the Mortgaged Property.

1.11 Actions by Mortgagee to Preserve Mortgaged Property. That should Mortgagor fail to make any payment or to do any act as and in the manner provided in any of the Credit Documents (including without limitation any failure to make payments to Rabo secured by the Rabo Mortgage), Mortgagee, in its own discretion, without obligation so to do and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation, may make or do the same in

such manner and to such extent as it may deem necessary to protect the security hereof. Mortgagor shall, immediately upon demand therefore by Mortgagee, pay all reasonable costs and expenses incurred by Mortgagee in connection with the exercise by Mortgagee of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and attorney's fees.

That in the event Mortgagee is called upon to pay any sums of money to protect this Mortgage and the Notes secured hereby as aforesaid, all monies advanced or due hereunder shall become immediately due and payable, together with interest at a rate as is set forth in the First Note for regular and default interest.

- 1.12 Survival of Warranties. To fully and faithfully satisfy and perform the obligations of Mortgagor contained in any of the Credit Documents. All representations, warranties and covenants of Mortgagor contained therein shall survive execution and recording of this Mortgage and shall remain continuing obligations, warranties and representations of Mortgagor during any time when any portion of the obligations secured by this Mortgage remain outstanding.
- 1.13 Eminent Domain. That should the Mortgaged Property, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner ("Condemnation"), or should Mortgagor receive any notice or other information regarding such proceeding, Mortgagor shall give prompt written notice thereof to Mortgagee.
- (a) Mortgagee shall be entitled to all compensation, awards and other payments or relief therefore, and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. Mortgagee shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Mortgagor (the "Proceeds") are hereby assigned to Mortgagee and Mortgagor agrees to execute such further assignments of the Proceeds as Mortgagee may require.
- (b) In the event any portion of the Mortgaged Property is so taken or damaged, Mortgagee shall have the option, in its sole and absolute discretion, to apply all such Proceeds, after deducting therefrom all costs and expenses (regardless of the particular nature thereof and whether incurred with or without suit), including attorney's fees, incurred by it in connection with such Proceeds, upon any indebtedness secured hereby and in such order as Mortgagee may determine, or to apply all such Proceeds, after such deductions, to the restoration of the Mortgaged Property upon such conditions as Mortgagee may determine. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. After applying the Proceeds to the restoration of the Mortgaged Property, the balance of such Proceeds, if any, shall be promptly paid to Mortgagor.

- 1.14 Additional Security. That in the event Mortgagee at any time holds additional security for any of the obligations secured hereby, it may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently herewith or after a sale is made hereunder.
- 1.15 Successors and Assigns. That this Mortgage applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Mortgagee" shall mean the owner and holder of any Note, whether or not named as Mortgagee herein. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.
- 1.16 Inspections. That Mortgagee, or its agents, representatives or workmen, upon giving reasonable notice to Mortgagor, are authorized to enter at any reasonable time upon or in any part of the Mortgaged Property for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Credit Documents.
- 1.17 Liens. To pay when due, at Mortgagor's cost and expense, all obligations with respect to the Rabo Mortgage, and to pay and promptly discharge, at Mortgagor's cost and expense, all other liens, encumbrances (other than the Permitted Encumbrances) and charges upon the Mortgaged Property, or any part thereof or interest therein. Mortgagor shall have the right to contest in good faith the validity of any such lien, encumbrance or charge, provided Mortgagor shall first deposit with Mortgagee a bond or other security satisfactory to Mortgagee in such amounts as Mortgagee shall reasonably require, but not more than one and one-half (150%) of the amount of the claim, and provided further that Mortgagor shall thereafter diligently proceed to cause such lien, encumbrance or charge to be removed and discharged. If Mortgagor shall fail to discharge any such lien, encumbrance or charge, then, in addition to any other right or remedy of Mortgagee, Mortgagee may, but shall not be obligated to, discharge the same, either by paying the amount claimed to be due, or by procuring the discharge or such lien by depositing in court a bond or the amount claimed or otherwise giving security for such claim, or in such manner as is or may be prescribed by law.
- 1.18 Other Mortgages. That Mortgagor will not create, assume or suffer to exist in respect of the Mortgaged Property, or any part thereof, any mortgage or security agreement other than this Mortgage or the Permitted Encumbrances.
- 1.19 Mortgagor's Waiver of Certain Rights. The Mortgagor waives to the extent not prohibited by applicable law that cannot be waived (a) the benefit of all laws now existing or hereafter enacted providing for any appraisal before sale of any portion of the Mortgaged Property, (b) the benefit of all laws now existing or hereafter enacted in any way extending the time for enforcement or collection of the obligations contained in the Credit Documents, (c) all benefit that might accrue to Mortgagor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale

on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption, moratorium, or extension of time for payment, and (d) all notices of Mortgagee's election to exercise or its actual exercise of any right, remedy or recourse provided for under the Credit Documents or at law or in equity. To the extent it may lawfully do so, the Mortgagor agrees that it will not at any time insist upon, plead, claim or take the benefit or advantage of, any law now or hereafter in force providing for any appraisal, valuation, stay or extension, and the Mortgagor hereby waives and releases all rights of valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the obligations contained in the Credit Documents and marshaling in the event of foreclosure of the liens hereby created. To the extent permitted by applicable law, the Mortgagee shall not be required in connection with any foreclosure, pursuant to any power of sale herein granted, or in connection with any deed in lieu of foreclosure, to foreclose, to sell or to take a deed in lieu of foreclosure, covering all or any specific portion of the Mortgaged Property and the Mortgagee may elect to foreclose, to sell or to take a deed in lieu of foreclosure to all or any portion of the Mortgaged Property and the Mortgagee's rights in connection with any foreclosure, pursuant to the power of sale herein granted, or in connection with any deed in lieu of foreclosure hereunder granted by the Mortgagor, may be exercised in any combination with respect to some or all of the Mortgaged Property. To the extent permitted by applicable law, the Mortgagee shall not be required to marshal or sell the Mortgaged Property, the leases, rents, issues and profits assigned by the Mortgagor or any other security by which the obligations contained in the Credit Documents are secured in any particular order.

- 1.20 Ownership and Management of Mortgagor. That the sole managers and members of the PKD Properties are Paul H. Duncan and Kathy F. Duncan. That the sole member of TLD Properties is Taylor F. Duncan, and that TLD Properties is member-managed.
- 1.21 Acknowledgment. It is in the best interest of Mortgagor to enter into this Agreement and the other Credit Documents, and the amounts loaned to the Mortgagor under the Notes will directly or indirectly inure to the benefit of the Mortgagor.

ARTICLE II

SECURITY AGREEMENT

- 2.01 Creation of Security Interest. Mortgagor hereby grants to Mortgagee a security interest in the Personal Property described in the Credit Documents and in this Mortgage, including without limitation any and all property of similar type or kind hereafter located on or at the Property for the purpose of securing all obligations of Mortgagor contained in any of the Credit Documents.

2.02 Warranties, Representations and Covenants of Mortgagor. Mortgagor hereby warrants, represents and covenants as follows:

- (a) Except for the security interest granted hereby and under the Permitted Encumbrances, Mortgagor is, and as to portions of the Personal Property to be acquired after the date hereof will be, the sole owner of the Personal Property, free from any adverse lien, security interest, encumbrance or adverse claims thereon of any kind whatsoever. Mortgagor will notify Mortgagee of, and will defend the Personal Property against, all claims and demands of all persons at any time claiming the same or any interest therein.
- (b) Mortgagor will not lease, sell, convey or in any manner transfer the Personal Property without the prior written consent of Mortgagee, except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Mortgagor.
- (c) The Personal Property will be kept on or at the Property and Mortgagor will not remove the Personal Property from the Property without the prior written consent of Mortgagee, except such portions or items of Personal Property which are consumed or worn out in ordinary usage, all of which shall be promptly replaced by Mortgagor. Mortgagor may replace any item of Personal Property in the ordinary course of business, without the prior consent of Mortgagee.
- (d) Mortgagor maintains a place of business in the State of Idaho that is Mortgagor's chief executive office and Mortgagor will immediately notify Mortgagee in writing of any change in its place of business as set forth in the beginning of this Mortgage.
- (e) At the request of Mortgagee, Mortgagor will join Mortgagee in executing one or more financing statements and renewals and amendments thereof pursuant to the Uniform Commercial Code in form satisfactory to Mortgagee, and will pay the cost of filing the same in all public offices wherever filing is deemed by Mortgagee to be necessary or desirable.
- (f) All covenants and obligations of Mortgagor contained herein relating to the Mortgaged Property shall be deemed to apply to the Personal Property whether or not expressly referred to herein.
- (g) Mortgagor understands and agrees that certain items of irrigation equipment and feedlot or dairy equipment (if any) hereinbefore described or referred to as "personal property" actually and as a matter of law are fixtures and are deemed a part of the land covered by this Mortgage, and that said designation as "personal property" is for convenience only and shall be disregarded in the case of any fixtures described or referred to

following such designation. The Mortgagor will not sell or dispose of any of said personal property, nor attempt to do so, nor part with possession of any of the same, nor remove the mortgaged personal property or any of the same, nor permit it to be removed, from the real property described on Exhibit A, or from the adjoining or adjacent lands where said personal property may be located, while this Mortgage shall remain in force and affect, without the written consent of the Mortgagee; *provided, however*, that the language of this paragraph shall not prevent the Mortgagor from replacing or upgrading any personal property subject to this Mortgage in the ordinary course of business without the written consent of the Mortgagee. All upgrades or replacements shall become subject to this Mortgage and security interest herein provided for. All the mortgaged Personal Property shall at all times while this Mortgage remains in force and effect be kept and maintained by the Mortgagor, at Mortgagor's own cost and expense, in good working order, condition and repair, and the Mortgagor will from time to time make all replacements of such Personal Property which may reasonably be necessary for the irrigation and cultivation of the real property described on Exhibit A and Mortgagor will neither commit nor suffer any damages or waste on or to the mortgaged premises and said personal property nor do or permit to be done anything that may lessen or impair the value of the mortgaged property, real or personal, or the lien or security thereof.

- (h) This Mortgage constitutes a security agreement as that term is used in the Uniform Commercial Code of Idaho.

ARTICLE III

ASSIGNMENT OF RENTS, ISSUES AND PROFITS

- 3.01 Assignment of Rents. Mortgagor hereby collaterally assigns and transfers to Mortgagee all accounts arising out of, or in connection with, leases, bonuses, royalties, subleases, franchises, rents, issues and profits arising out of, or in connection with, the Mortgaged Property (hereinafter collectively referred to as "rents"), and hereby gives to and confers upon Mortgagee the right, power and authority to collect such rents following an event of default under any of the Credit Documents. Mortgagor irrevocably appoints Mortgagee its true and lawful attorney-in-fact, at the option of Mortgagee at any time from time to time, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, in the name of Mortgagor or Mortgagee, for all such rents, and apply the same to the indebtedness secured hereby; *provided, however*, that Mortgagor shall have the right to collect such rents (but not more than thirty days in advance) prior to or at any time there is not an event of default under any of the Credit Documents.
- 3.02 Collection Upon Default. Upon any event of default under any of the Credit Documents, Mortgagee may, at any time without notice, enter upon and take

possession of the Mortgaged Property, or at any part thereof, in its own name sue for or otherwise collect such accounts, rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorney's fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine. The collection of such rents, issues and profits or the entering upon and taking possession of the Mortgaged Property, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

- 3.03 Restriction on Further Assignments, etc. Except as herein specifically provided, Mortgagor will not, without prior written consent of the Mortgagee, assign the accounts, rents, issues or profits, or any part thereof, from the Mortgaged Property; and will not consent to the modification, cancellation or surrender of any lease or sublease covering the Mortgaged Property, or any part thereof. Any action of Mortgagor in violation of the terms of this Section shall be void as against Mortgagee in addition to being a default under this Mortgage.

ARTICLE IV

REMEDIES UPON DEFAULT

- 4.01 Event of Default. The occurrence of any one or more of the following events shall constitute a default hereunder:
- a) the occurrence of an event of default under any Note, including without limitation the sale, assignment, lease with the option of sale disposal or other transfer of the Mortgaged Property or any interest in the Mortgagor; or
 - b) failure to observe or perform any covenant, agreement, condition, term or provision of this Mortgage or any other Credit Document (other than an event of default described in clause (a) above).
- 4.02 Remedies. In the event of the occurrence and during the continuance of any default, the Mortgagee may at any time thereafter, subject to the provisions set forth in this Section, exercise any or all of the following remedies:
- a) all of the rights and remedies provided in the Notes, including declaring the entire amount of the indebtedness and obligations immediately due and payable, and the indebtedness and obligations thereupon shall become immediately due and payable without presentment, protest, notice of protest or further demand or notice of any kind, all of which are hereby expressly waived;
 - b) all of the rights and remedies of a secured party under the Uniform Commercial Code in effect in the jurisdiction in which the Property is located;

- c) enter the Property and take exclusive possession thereof and of all books, records and accounts relating thereto, and if Mortgagor remains in possession of the Property during the continuance of an event of default without Mortgagee's written consent, Mortgagee may invoke any legal remedies to dispossess Mortgagor;
- d) to the greatest extent permitted by law, sell or offer for sale the Mortgaged Property in such portions, order and parcels as Mortgagee may determine, with or without having first taken possession of same, to the highest bidder for cash at public auction, and the right of sale arising out of any event of default shall not be exhausted by one or more sales. Such sale shall be made in accordance with the laws of Idaho relating to the sale of real estate or by Article 9 of the UCC relating to the sale of other collateral after default by a debtor (as such laws now exist or may be hereafter amended or succeeded), or by any other present or subsequent articles or enactments relating to same;
- e) commence an action to foreclose this Mortgage;
- f) specifically enforce any of the covenants hereof;
- g) the right to appoint a receiver of the Mortgaged Property, which appointment, to the extent permitted by applicable law, may be made either before or after foreclosure sale, upon notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the then value of the Mortgaged Property;
- h) such other actions or proceedings available to the Mortgagee under applicable law as it deems necessary or advisable to protect its interest in the Mortgaged Property and the indebtedness and obligations secured thereby; and
- i) the right to receive rent under Article III, including without limitation the right to receive payments under any assignment of bonuses, rentals and royalties, governmental subsidy or program referenced in Section 5.04 hereof.

In the event of default hereunder, the interest rate shall be Twelve Percent (12.0%) per annum.

To the extent it may lawfully do so, the Mortgagor agrees that it will not (i) invoke or utilize any law now or hereafter in force which might prevent, cause a delay in or otherwise impede the enforcement of the rights of the Mortgagor in the Mortgaged Property or (ii) protest the appointment of a receiver of the Property pursuant to Section 4.02(g) hereof.

Prior to exercising any remedy with respect to an Event of default under Sections 3(a) or Sections 3(c) of the Notes (arising out of a payment default), the Mortgagor shall have ten (10) days to effect a full and complete cure of such Event of default by paying all amounts due and payable in accordance with the terms thereof.

Prior to exercising any remedy with respect to any Event of default *other than* an Event of default under Sections 3(a), 3(c) (arising out of a payment default), or 3(h) of the Notes, the Mortgagee shall first give written notice to the Mortgagor at the address set forth on the signature page hereto, which notice shall specify in writing each and every claimed Event of default. The Mortgagor shall have thirty (30) days from the receipt of such notice to effect a cure of each and every claimed Event of default. If any claimed Event of default remains uncured after such thirty (30) day period, the Mortgagee may then proceed to exercise any of the remedies to which it may be entitled, including those set forth in this Section, without the obligation to provide further notice to the Mortgagor. Any written notice to the Mortgagor shall be mailed to the address of such individual or entity set forth on the signature page hereto. The parties acknowledge and agree that with respect to any limited liability company that is a Mortgagor, notice to any member of such limited liability company shall constitute notice to such limited liability company.

- 4.03 Remedies Not Exclusive. Mortgagee shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Mortgage or under any Credit Document or other agreement or any laws now or hereafter in force, notwithstanding some or all of the said indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it is being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Credit Documents to Mortgagee or to which it may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by Mortgagee.

ARTICLE V

MISCELLANEOUS

5.01 Interpretation; Governing Law; etc. Time is (and shall be) of the essence in this Mortgage and the other Credit Documents. All covenants, agreements, representations and warranties made in this Mortgage or any other Credit Document or in certificates delivered pursuant hereto or thereto shall be deemed to have been relied on by the Mortgagee, notwithstanding any investigation made by the Mortgagee on its behalf, and shall survive the execution and delivery to the Mortgagee hereof and thereof. The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision hereof, and any invalid or unenforceable provision shall be modified so as to be enforced to the maximum extent of its validity or enforceability. The headings in this Mortgage are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Mortgage and the other Credit Documents constitute the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior and contemporaneous understandings and agreements, whether written or oral. This Mortgage may be executed in any number of counterparts which together shall constitute one instrument. This Mortgage, and any issue, claim or proceeding arising out of or relating to this Mortgage or the conduct of the parties hereto, whether now existing or hereafter arising and whether in contract, tort or otherwise, shall be governed by and construed in accordance with the laws (other than the conflict of laws rules) of the State of Idaho, provided that the laws of the state in which the Mortgaged Property is located shall govern lien perfection, lien priority and validity of this Mortgage and the procedures with respect to the enforcement hereof.

5.02 Notices. Except as otherwise specified in this Mortgage or any other Credit Document, any notice required to be given pursuant to this Mortgage or any other Credit Document shall be given in writing. Any notice, consent, approval, demand or other communication in connection with this Mortgage or any other Credit Document shall be deemed to be given if given in writing addressed as provided below (or to the addressee at such other address as the addressee shall have specified by notice actually received by the addressor), and if either (a) actually delivered in fully legible form to such address or (b) in the case of a letter, unless actual receipt of the notice is required by any Credit Document, five days shall have elapsed after the same shall have been deposited in the United States mails, with first-class postage prepaid.

- a) If to the Mortgagor, to it at the addresses listed on the signature page hereto.
- b) If to the Mortgagee, to it at the addresses listed in the first paragraph hereto.

5.03 Joint and Several Obligations; Heirs and Assigns. In the event any of the Mortgagor consists of more than one individual or entity, the covenants, agreements, conditions, provisions, representations, warranties or obligations of each hereunder or under any Credit Document shall apply to each and shall be joint and several. A default hereunder shall also apply with respect to the act or

omission of any one or more individuals or entities comprising the Mortgagor. This Mortgage and the other Credit Documents shall bind the heirs, personal representatives, successors and assigns of each of the Mortgagor; *provided, however*, that neither this Mortgage nor any other Credit Document be assigned without the express written consent of the Mortgagee.

5.04 Subsidy and Payment in Kind Compensation.

- a) Following an event of default under any of the Credit Documents, Mortgagor shall not register the Property, or any portion thereof, with any federal, state or local government office for the purpose of obtaining subsidy or payment-in-kind compensation without first obtaining Mortgagee's prior written consent. Mortgagor hereby grants to Mortgagee a security interest in any such subsidy or payment-in-kind compensation, whether or not Mortgagee gives its written consent to Mortgagor to register the Property, or any portion thereof, for such compensation. Mortgagor, upon the written request of Mortgagee, shall execute any documents necessary to further perfect Mortgagee's security interest in such compensation. Any such document is to be in form and substance acceptable to Mortgagee. Mortgagor hereby appoints Mortgagee its attorney-in-fact to execute such documents in Mortgagor's name and behalf. Upon Mortgagee's request, Mortgagor shall deliver to Mortgagee any document of title Mortgagee desires to hold to secure Mortgagee's interest in any such government compensation.
- b) Upon any event of default under any of the Credit Documents, Mortgagee may, at any time without notice, take possession of any such subsidy or payment-in-kind compensation, or at any part thereof, in its own name sue for or otherwise collect such subsidy or payment-in-kind compensation, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorney's fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine. The collection of such government compensation or the entering upon and taking possession of any subsidy or payment-in-kind compensation, or the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default.

5.05 Habendum Clause. Upon payment in full of the indebtedness secured hereby and the performance by Mortgagor of all of the obligations imposed on Mortgagor herein and in the Notes, these presents shall be null and void, and Mortgagee shall release this Mortgage and the lien hereof by proper instrument executed in recordable form.

5.06 Legal Compliance. The Mortgagor shall furnish evidence satisfactory to the Mortgagee confirming the issuance on terms and conditions satisfactory to the Mortgagee, by the appropriate federal, state, county, regional or local authorities

(including authorities whose jurisdiction involves environmental protection), of all licenses, approvals or permits necessary in connection with (a) the operation of the Mortgagor's business and the lawful occupancy thereof for the purpose for which such project was created (including the issuance by any federal, state, county, regional or local authorities of such licenses, approvals or permits where jurisdiction involves environmental protection), and (b) the possession of all Property in connection therewith. The Mortgagor covenants to continue to maintain compliance with all such licenses, approvals or permits as well as any applicable federal, state, county, regional or local laws and regulations.

- 5.07 Attorney-in-Fact. Mortgagor hereby irrevocably appoints Mortgagee and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest: (i) to execute and/or record any notices of completion, cessation of labor, or any other notices that Mortgagee reasonably deems appropriate to protect Mortgagee's interest in the Mortgaged Property if Mortgagor shall fail to do so within three (3) days after written request by Mortgagee, (ii) upon the issuance of a deed pursuant to the foreclosure of this Mortgage or the delivery (and acceptance by Mortgagee) of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to leases, rents and the other Mortgaged Property in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, and (iii) upon the occurrence of an event of default, to perform any duty or obligation of Mortgagor under this Mortgage or under any of the other Credit Documents (including payment of taxes and insurance premiums); *provided, however*, that: (1) Mortgagee shall not under any circumstances be obligated to perform any duty or obligation of Mortgagor; (2) Mortgagor shall reimburse Mortgagee for all sums expended in such performance plus interest at Twelve Percent (12.0%) per annum; (3) Mortgagee, as such attorney-in-fact, shall only be accountable for such funds as are actually received by Mortgagee; and (4) Mortgagee shall not be liable to Mortgagor or any other person for any failure to take any action which it is empowered to take under this Section.
- 5.08 Amendment. This Mortgage may not be amended, modified or restated without the express written consent of the Mortgagor and the Mortgagee.

[The remainder of this page has been left intentionally blank.]

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

MORTGAGOR

1404 E. 500 N.
Jackson, ID 83350

PKD PROPERTIES, L.C.

By: Paul H. Duncan
Name: Paul H. Duncan
Title: Manager

By: Kathy F. Duncan
Name: Kathy F. Duncan
Title: Manager

1404 E. 500 N.
Jackson, ID 83350

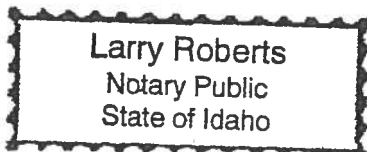
T.L.D. PROPERTIES, LLC

By: Taylor F. Duncan
Name: Taylor F. Duncan
Title: Member & Manager

By: Laura M. Duncan
Name: Laura M. Duncan
Title: Member

STATE OF IDAHO)
 : ss.
County of Cassia)

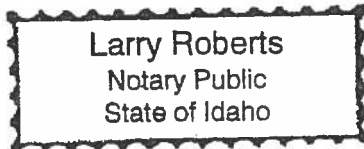
On this 7th day of November, in the year 2012, before me, a notary public for the State of Idaho, personally appeared **Paul H. Duncan**, known or identified to me to be the person listed above and an authorized signatory of **PKD Properties, L.C.**, and acknowledged to me on this day under oath, that, being informed of the contents of this document, he executed the same on behalf of such entity as his free and voluntary act and deed.

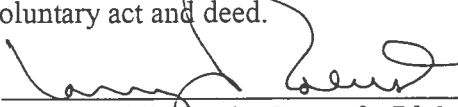


Larry Roberts
Notary Public for the State of Idaho
Residing at: Burley, ID
My Commission Expires: 6-30, 2015

STATE OF IDAHO)
 : ss.
County of Cassia)

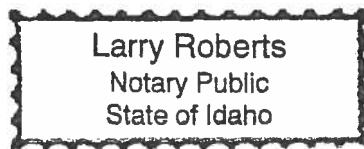
On this 7th day of November, in the year 2012, before me, a notary public for the State of Idaho, personally appeared **Kathy F. Duncan**, known or identified to me to be the person listed above and an authorized signatory of **PKD Properties, L.C.**, and acknowledged to me on this day under oath, that, being informed of the contents of this document, he executed the same on behalf of such entity as his free and voluntary act and deed.

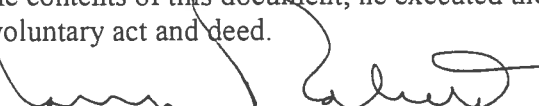



Notary Public for the State of Idaho
Residing at: Burley, ID
My Commission Expires: 6-30, 2015

STATE OF IDAHO)
 : ss.
County of Cassia)

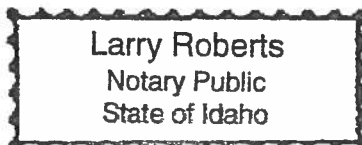
On this 7th day of November, in the year 2012, before me, a notary public for the State of Idaho, personally appeared **Taylor F. Duncan**, known or identified to me to be the person listed above and an authorized signatory of **TLD Properties, LLC**, and acknowledged to me on this day under oath, that, being informed of the contents of this document, he executed the same on behalf of such entity as his free and voluntary act and deed.

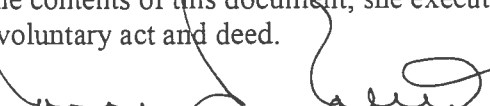



Notary Public for the State of Idaho
Residing at: Burley, ID
My Commission Expires: 6-30, 2015

STATE OF IDAHO)
 : ss.
County of Cassia)

On this 7th day of November, in the year 2012, before me, a notary public for the State of Idaho, personally appeared **Laura M. Duncan**, known or identified to me to be the person listed above and an authorized signatory of **TLD Properties, LLC**, and acknowledged to me on this day under oath, that, being informed of the contents of this document, she executed the same on behalf of such entity as her free and voluntary act and deed.




Notary Public for the State of Idaho
Residing at: Burley, ID
My Commission Expires: 6-30, 2015

REAL PROPERTY
LEGAL DESCRIPTION

PARCEL NO. 1:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 19: SE $\frac{1}{4}$

Section 20: SW $\frac{1}{4}$

Section 30: E $\frac{1}{2}$

PARCEL NO. 2:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 19: Lots 1, 2, 3, 4 and E $\frac{1}{2}$ W $\frac{1}{2}$

PARCEL NO. 3:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 21: W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$

EXCEPTING THEREFROM the following described tract:

Beginning at the Southwest corner of said Section 21, said corner marked by a U.S. Bureau of Land Management pipe; thence North 89°53'00" East along section line for 534.39 feet to a $\frac{1}{2}$ inch rebar which shall be the Point of Beginning;
Thence North 0°02'42" West for 221.52 feet to a $\frac{1}{2}$ inch rebar;
Thence South 59°09'06" East for 430.54 feet to a $\frac{1}{2}$ inch rebar on section line;
Thence South 89°53'00" West along said section line for 369.46 feet to the Point of Beginning.

Section 28: NW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$

PARCEL NO. 4:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 21: E $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$

Section 28: E $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$

PARCEL NO. 5:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 28: SW $\frac{1}{4}$ and S $\frac{1}{2}$ NW $\frac{1}{4}$

Section 33: NW $\frac{1}{4}$ NW $\frac{1}{4}$

PARCEL NO. 6:

Pipeline easement for the benefit of Parcel Nos. 3, 4 and 5 as created by Grant Of Pipeline Easement, dated January 18, 1980 and recorded March 5, 1980 as Instrument No. 124125 on Film No. 132, records of Cassia County, Idaho, for the purpose of constructing, operating and maintaining a water delivery system centered on a line more particularly described as follows:

Beginning at a point that is 30 feet North of the Southwest corner of the SE $\frac{1}{4}$ of Section 20, Township 12

South, Range 21 East, Boise Meridian, Cassia County, Idaho;
Thence South 89°57' East 650 feet +/- to a point;
Thence on a curve whose delta angle is 26°13'55" and whose radius is 1300 feet and whose arc is 595.18 feet and whose chord is 590 feet and whose tangent is 302.9 feet to a point;
Thence North 89°40' East 1505.65 feet to a terminus point, which point is 30 feet South of the Southeast corner of Section 20, Township 12 South, Range 21 East, Boise Meridian.

PARCEL NO. 7:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 21: Part of the SW¼SW¼, more particularly described as follows:

Beginning at the Southwest corner of said Section 21, said corner marked by a U.S. Bureau of Land Management pipe; thence North 89°53'00" East along section line for 534.39 feet to a ½ inch rebar which shall be the Point of Beginning;
Thence North 0°02'42" West for 221.52 feet to a ½ inch rebar;
Thence South 59°09'06" East for 430.54 feet to a ½ inch rebar on section line;
Thence South 89°53'00" West along said section line for 369.46 feet to the Point of Beginning.

PARCEL NO. 8:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: ALL, **SAVE AND EXCEPTING** a parcel of land located in the SW¼SW¼ of Section 1, more particularly described as follows:

Commencing at the Southwest corner of said Section 1, from which the S¼ corner of said Section 1 bears South 89°56'14" East for 2627.06 feet; thence South 89°56'14" East along the South boundary of the SW¼ of said Section 1 for a distance of 137.53 feet to the True Point of Beginning;
Thence North 00°08'28" West for a distance of 492.32 feet;
Thence South 89°56'14" East parallel to the South boundary of the SW¼ of said Section 1 for a distance of 173.89 feet;
Thence South 00°08'28" East for a distance of 382.60 feet;
Thence North 89°56'14" West parallel to the South boundary of the SW¼ of said Section 1 for a distance of 9.27 feet;
Thence South 00°08'28" East for a distance of 109.72 feet to a point on the South boundary of the SW¼ of said Section 1;
Thence North 89°56'14" West along the South boundary of the SW¼ of said Section 1 for a distance of 164.63 feet to the True Point of Beginning.

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 12: W½, **SAVE AND EXCEPTING** a parcel of land located in the SW¼SW¼ of Section 12, more particularly described as follows:

Commencing at the Southwest corner of said Section 12 and being the True Point of Beginning;
Thence North 00°15'20" East along the West boundary of the SW¼ of said Section 12 for a distance of 980.00 feet;
Thence South 89°44'40" East for a distance of 25.00 feet;
Thence South 190°58" East for a distance of 152.27 feet to a point on the arc of a non-tangent curve left;
Thence Southeasterly along the arc of the curve left for a distance of 866.07 feet, said arc having a radius of 1317.58 and a long chord bearing and distance of South 391°7'48" East for 850.56 feet;
Thence South 00°01'00" West for a distance of 178.00 feet to a point on the South boundary of the SW¼ of Section 12;
~~Thence North 89°59'00" West along the South boundary of the SW¼ of Section 12 for a distance of 618.00 feet to the True Point of Beginning.~~

Section 13: E½

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 17: ALL
Section 18: ALL
Section 21: NE¼
Section 22: ALL
Section 27: NW¼, NW¼SW¼

PARCEL NO. 9:

Easement for the benefit of Parcel No. 8 as created by "Easement For Irrigation Pipe-Line" dated February 28, 1991 and recorded March 25, 1991 as Instrument No. 212560 on Film No. 224, records of Cassia County, Idaho, over and across the NW¼ of Section 21, Township 12 South, Range 21 East of the Boise Meridian, Cassia County, Idaho.

PARCEL NO. 10:

Easement for the benefit of Parcel No. 8 as created by "Easement For Irrigation Water Conveyance", dated February 28, 1991 and recorded January 22, 1992 as Instrument No. 217173 on Film No. 231, records of Cassia County, Idaho, over and across the W½ of Section 13, Township 12 South, Range 20 East of the Boise Meridian, Cassia County, Idaho.

PARCEL NO. 11:

Easement for the benefit of Parcel No. 8 as created by Easement Agreement (Irrigation Equipment) by and between Golden Valley Land & Cattle Co., an Idaho corporation ("Golden Valley") and Don McFarland and Carol McFarland, husband and wife (collectively, "McFarland") dated July 25, 1996 and recorded July 26, 1996 as Instrument No. 244159 on Film No. 279, records of Cassia County, Idaho, more particularly described as follows:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 12: A parcel of land located in the SW¼SW¼, more particularly described as follows:

Commencing at the Southwest corner of said Section 12; Thence South 89°59'00" East for 618.00 feet; Thence North 00°01'00" East for 38.86 feet to a point which is the True Point of Beginning;
Thence South 29°58'12" West for a distance of 16.00 feet;
Thence North 89°59'00" West for a distance of 564.47 feet;
Thence North 00°10'28" West for a distance of 24.09 feet;
Thence North 89°49'32" East for a distance of 49.84 feet;
Thence North 00°15'24" West for a distance of 46.00 feet;
Thence North 89°37'08" East for a distance of 30.59 feet;
Thence South 62°39'33" East for a distance of 99.82 feet;
Thence South 89°45'11" East for a distance of 385.89 feet;
Thence North 29°58'12" East for a distance of 35.57 feet;
Thence South 00°01'00" West for a distance of 40.06 feet to the True Point of Beginning.

PARCEL NO. 12:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: A parcel of land located in the SW¼SW¼, more particularly described as follows:

Commencing at the Southwest corner of said Section 1, from which the S¼ corner of said Section 1 bears South 89°56'14" East 2627.06 feet, thence South 89°56'14" East along the South boundary of the SW¼ of said Section 1 for a distance of 137.53 feet to the True Point of Beginning;
Thence North 00°08'28" West for a distance of 492.32 feet;
~~Thence South 89°56'14" East parallel to the South boundary of the SW¼ of said Section 1 for a distance of 173.89 feet;~~
Thence South 00°08'28" East for a distance of 382.60 feet;
Thence North 89°56'14" West parallel to the South boundary of the SW¼ of said Section 1 for a

distance of 9.27 feet;
Thence South 00°08'28" East for a distance of 109.72 feet to a point on the South boundary of the SW¼ of said Section 1;
Thence North 89°56'14" West along the South boundary of the SW¼ of said Section 1 for a distance of 164.63 feet to the True Point of Beginning.

PARCEL NO. 13:

Easements for ingress and egress for the benefit of Parcel No. 8 as created by Warranty Deed executed by McReits, L.L.C, Don McFarland, managing member, Grantor to C. Gordon Luke and Eola D. Luke, husband and wife, Grantee, dated November 9, 2000 and recorded November 14, 2000 as Instrument No. 272140, records of Cassia County, Idaho, more particularly described as follows:

Easement No. A:

A 40.0 foot wide easement for the purpose of ingress, egress and work associated with the potato cellars.

Easement No. B:

A joint use easement for ingress and egress of trucks etc. that may be used in conjunction with the cellar storage facilities, said easement being on, over and across the South 70.0 feet of the West 302.0 feet of the SW¼SW¼ of said Section 1, Township 12 South, Range 20 East of the Boise Meridian.

PARCEL NO. 14:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 2: E½, **SAVE AND EXCEPT** a tract of land located in the NW¼NE¼ of Section 2, more particularly described as follows:

Commencing at the North ¼ corner of said Section 2, which is the True Point of Beginning and from which the Northeast corner of Section 2 bears South 89°48'00" East for 2631.56 feet;
Thence South 89°48'00" East along the North boundary of the NE¼ of Section 2 for a distance of 662.00 feet;
Thence South 26°12'51" East for a distance of 149.89 feet to a point on the arc of a curve left;
Thence Southwesterly along the arc of the curve left for a distance of 854.55 feet, said arc having a radius of 1323.65 feet and a long chord bearing and distance of South 45°17'27" West for 839.79 feet;
Thence North 63°07'25" West for a distance of 145.07 feet to a point on the West boundary of the NE¼ of Section 2;
Thence North 00°10'27" West along the West boundary of the NW¼NE¼ of Section 2 for a distance of 662.00 feet to the True Point of Beginning.

ALSO SAVE AND EXCEPT the following described tract:

Beginning at the Northeast corner of said Section 2, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;
Thence South 00°21'43" East along the East line of Section 2 for a distance of 785.80 feet;
Thence North 89°51'39" West for a distance of 25.00 feet to a ½ inch rebar;
Thence along a non-tangent curve to the left for a distance of 1119.43 feet to a ½ inch rebar, said curve having a radius of 1402.97 feet and a central angle of 45°42'59" and a long chord bearing of North 45°35'45" West for a distance of 1089.97 feet;
Thence North 00°21'43" West for a distance of 25.00 feet to the North line of Section 2;
Thence South 89°51'39" East along the North line of Section 2 for a distance of 798.90 feet to the Point of Beginning.

Section 11: NE¼

PARCEL NO. 15:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 2: W½

SAVE AND EXCEPT the following described tract:

Beginning at the North ¼ section corner of said Section 2, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;
Thence South 00°13'57" East along the East line of the NW¼ for a distance of 731.66 feet to a ½ inch rebar;
Thence North 89°52'00" West for a distance of 25.00 feet to a ½ inch rebar;
Thence along a non-tangent curve to the left for a distance of 1056.23 feet to a ½ inch rebar, said curve having a radius of 1403.26 feet and a central angle of 43°07'34" with a long chord bearing of North 46°37'27" West for a distance of 1031.47 feet;
Thence North 00°13'57" West for a distance of 25.00 feet to the North line of Section 2;
Thence South 89°52'00" East along the North line of Section 2 for a distance of 771.87 feet to the Point of Beginning.

PARCEL NO. 16:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 3: ALL

Section 4: E½, SW¼, S½NW¼

EXCEPTING THEREFROM the following described tract:

Beginning at the Southwest corner of said Section 4, said corner marked by a US GLO iron pipe with brass cap which shall be the Point of Beginning;
Thence North 00°02'22" East along the West line of Section 4 for a distance of 1327.62 feet to a ½ inch rebar;
Thence North 89°51'19" East for a distance of 2154.55 feet to a ½ inch rebar;
Thence South 00°01'43" West for a distance of 1301.59 feet to a ½ inch rebar;
Thence South 00°01'43" West for a distance of 32.21 feet to the South line of Section 4;
Thence North 89°58'51" West along the South line of Section 4 for a distance of 2154.79 feet to the Point of Beginning.

ALSO EXCEPTING from said Sections 3 and 4 the following described tract:

Beginning at the Southwest corner of said Section 3, said corner marked by a US GLO iron pipe with brass cap which shall be the Point of Beginning;
Thence North 89°26'28" West along the South line of Section 4 for a distance of 1526.93 feet;
Thence North 00°13'14" West for a distance of 24.56 feet to a ½ inch rebar;
Thence North 00°13'14" West for a distance of 1311.57 feet to a ½ inch rebar;
Thence North 89°50'15" East for a distance of 2400.58 feet to a ½ inch rebar;
Thence South 00°24'13" West for a distance of 28.10 feet to a ½ inch rebar;
Thence North 89°56'02" East for a distance of 777.17 feet to a ½ inch rebar;
Thence South 74°17'05" East for a distance of 73.81 feet to a ½ inch rebar;
Thence South 38°51'17" East for a distance of 388.90 feet to a ½ inch rebar;
Thence South 33°15'30" East for a distance of 871.26 feet to a ½ inch rebar;
Thence South 01°32'03" West for a distance of 275.93 feet to a ½ inch rebar;
Thence South 01°32'03" West for a distance of 23.06 feet to the South line of Section 3;
Thence North 89°32'12" West along the South line of Section 3 for a distance of 2430.44 feet to the Point of Beginning.

PARCEL NO. 17:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 11: NW¼

PARCEL NO. 18:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 4: N½NW¼, **EXCEPT**

Tract I

Beginning at the Northeast corner of NW¼;
Thence South 470 feet;
Thence West 270 feet;
Thence North 470 feet;
Thence East 270 feet to the Point of Beginning.

Tract II

Beginning at the Southwest corner of the N½NW¼ of Section 4, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;
Thence North 00°12'33" East along the west line of Section 4 for a distance of 9.13 feet to a ½ inch rebar;
Thence South 89°45'11" East for a distance of 274.71 feet to a ½ inch rebar;
Thence South 00°12'33" West for a distance of 9.13 feet to the south line of the N½NW¼;
Thence South 00°12'33" West for a distance of 13.60 feet to a ½ inch rebar;
Thence North 89°45'11" West for a distance of 274.71 feet to a ½ inch rebar on the west line of Section 4;
Thence North 00°12'33" East along said line for a distance of 13.60 feet to the Point of Beginning.

PARCEL NO. 19:

A 25 foot irrigation easement for the benefit of Parcel No. 18, over, under and across the East 25 feet of the N½NE¼ of Section 5, Township 12 South, Range 20 East, Boise Meridian, Cassia County, Idaho as created by Warranty Deed dated November 7, 2002 and recorded November 8, 2002 as Instrument No 284783, records of Cassia County, Idaho.

PARCEL NO. 20:

A pipeline easement from C. Gordon Luke and Eola D. Luke, husband and wife, to PKD Properties, LC and T.L.D. Properties, LLC dated October 18, 2012 and recorded November 8, 2012 as Instrument No. 2012-005168 for the benefit of Parcel Nos. 5, 16 and 18, on, in over and through the real estate described as follows:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Sections 3 and 4: Part of Section 3 and part of Section 4, more particularly described as follows:

Beginning at the South ¼ Section corner, said corner marked by a US GLO iron pipe with brass cap;
Thence South 89°26'28" East along the south line of Section 4 for a distance of 1100.74 feet;
Thence North 00°13'14" West for a distance of 24.56 feet to a ½ inch rebar; Thence North 00°13'14" West for a distance of 254.52 feet to the Point of Beginning;
Thence North 00°13'14" West for a distance of 32.69 feet;
Thence North 66°22'33" East for a distance of 1696.51 feet;
Thence North 67°07'10" East for a distance of 903.46 feet;
Thence North 89°50'15" East for a distance of 9.91 feet to a ½ inch rebar;
Thence South 00°24'13" West for a distance of 28.10 feet to a ½ inch rebar;
Thence South 67°05'47" West for a distance of 901.30 feet;
Thence South 66°22'33" West for a distance of 1709.30 feet to the Point of Beginning.

Personal Property

MANUFACTURED HOMES

VIN	YEAR/MAKE/MODEL
NNID40951B	2005/NASU/TL
NNID40990B	2005/NASU/TL
NNID41013B	2005/NASU/TL
04960381ABP	1981/BUDD/TL

MOBILE HOMES

VIN	YEAR/MAKE/MODEL
12043X	1975/GUER/TL
11298X	1974/GUER/TL

IRRIGATION EQUIPMENT

	MOTOR	PUMP
Pump Station 8- Well	High Trust 150hp SN-C2684-01-588	Vertiline SN-002875
Pump Station 9 - Booster	Baldor 20 hp SN-39K061W669	Connell SN-60605
Pump Station 10 - Booster	WEG 20hp SN BH55601	Connell SN-unknown
Pump Station 11 - Booster	Lincoln 100hp SN- 250318	Peerless SN-9149774
Pump Station 11 - Well	US Electric 250hp SN- 1301651	Layne-Bowler SN- unknown
Pump Station 12 - Booster	Marathon 40hp SN-unknown	Berkely SN-0090294
Pump Station 13 - Booster	Marathon 50hp	Berkely SN- 3C326TTDP733BB
Pump Station 14 - Booster	Marathon 25hp Model BB 286TTDP7054BD	Berlely SN-6250304
Pump Station 15 - Booster	Leeson 20hp SN- unknown	Cornell Pump SN- 79164
Pump Station 16 - Well	GE 200hp SN- SK6324XC109A	Vertiline SN- 000325
Pump Station 17 - Booster	Marathon 135hp SN- 46TSTD5702555	Unknown pump type of SN
Pump Station 18- Well	GE 200 hp SUG287XC72A	Layne Boller - Vertiline sn-
Pump Station 18 - Booster	Baldor 30hp - No other data	Cornell SN-10067 11.38
Pump Station 21 - Well	GE 500 hp SN CBJ309008	Vertiline D12565
Pump Station 21 - Booster	Lincoln 100 hp SN371010-A1	Pump Unknown
Pump Station 22- Well	GE 400hp SN- AJJ124013	Vertiline SN- D03406
Pump Station 23 - Booster	Marathon 40hp SN- unknown	Pump Brand and SN unknown
Pump Station 5 - Booster	Baldor 60hp 42J022W616H2	Cornell 6RB-CC PKB sn
Pump Station 5 - Booster	Baldor 70hp 14J029x307H2	Cornell 6RB-CC PKB sn L1664
Pump Station 5 - Booster	Marathon 100hp XL404TTD8626P sn A15099N-55	Cornwell 6H100-4 sn73944
Pump Station 5 - Booster	Baldor 75hp 42J022W453H2	Cornwell 61B-CC sn146960
Pump Station 5 - Well	GE 600hp 5K6328X6333N	Layne Boller 165HH sn
Pump Station 6 - Booster	Baldor 75hp 14J029X101H2 CatNo A20913a-55	Cornell 5HH-CC 75.4 sn128141
Pump Station 7 - Booster	US Electric 100hp IDNO CF7172-7172-912-80-04996	Aurora 150A058 3404130 Type
Pump Station 7 - Well	US Motor 500hp No Additional Info	Layne Bowler Pump No Data
Pump Station 19 - Well	Westinghouse 250hp SN- 2764270 Frequency Drive	Layne Bowler SN - unknown
Pump Station 20 - Booster	Baldor 50hp SN- Z0902230111	Connell SN- 158321
Pump Station 1 - Booster Pump	Baldor 100 hp Spec 44F016W132H2	Cornell Pump 6RBCG 15743 12
Pump Station 2 - Booster Pump	Baldor 150 HP Cat A15101S-55 Spec 18C24X399H2	Cornell Pump 8H-CC SN 58466
Pump Station 1 - Well	GE 300 HP Mdl 5k6316XC36A	Layne Boller Verti Line Pump
Pump Station 2 - Booster	Baldor Spec 75hp 42J022W453H2	Cornell Pump 6H-CC SN 158467
Pump Station 3 - Well	GE 125hp 5K4445XG2E1-VRJ822103	Layne-Boller No Data
Pump Station 3 - Booster	US Elect 40hpID6229A-50-Y10Y223R151-M	Pump Make Unk USA04056

Pump Station 3 - Well	US Elect 100hp R-9983-04-122 R2146186M	Layne Bowler Mdl 12KXLL sn
Pump Station 3 - Booster	Marathon 20hp M-XL48211DR7072EN sn01-97912-51101	Cornell Pump 4RB24-4
Pump Station 4 - Booster	Marathon 7.5 hp HVB 184TTDR7604DV2	Pump Make and Data Unknown
Cummins Electric Generator	Cummins 180kw KTA 2300-GS	
Concrete Building	12 ft. x 16 ft.	
Water Storage Tank	Steel 12ft high x 72 ft Circ. (365 K gal)	
Water Pump	Baldor 25hp sn JPH2516T	Pump Unknown
Water Pump - 2	Baldor 25hp sn ?h?5T0T	Pump Unknown
Water Pump - 3	Baldor 25hp sn JPM2516T	Layne 3078
Mixing Valves		
PIVOTS		
Field 1	Valley Std 8000 SN74688	8 Towers
Field 2	Valley Std 8000	8 Towers
Field 3	Valley Std KA09485	7 Towers
Field 6	Valley Std	8 Towers
Field 7	Valley Std 8000 SN74700	8 Towers
Field 8	Valley Std	8 Towers
Field 9	Valley Std 6000 SN 69002	8 Towers
Field 10	Valley Std 6000 SN 7779	8 Towers
Field 11	Lindsay SNL75155	8 Towers
Field 12	Valley Std SN0519797 1997 Inspection	8 Towers
Field 13	Valley Std 6000 SN7736	8 Towers
Field 14	Valley Std KA09485	4 Tower
Field 15	Valley Std 8000	8 Towers
Field 16	Valley Std 8000 SN74524	8 Towers
Field 17	Valley Model 8000	8 Tower
Field 18	Zimmatic Panel No P-35468	8 Tower
Field 19	Valley Model 8000	8 Tower
Field 20	Valley Model 8000	8 Tower
Field 21	Valley Model 8000	8 Tower
Field 23	Lindsay Zimmatic 1999 Inspection	8 Tower
Field 24	Valley Std 8000 2008 Inspection	7 Tower
Field 25	Valley Std 8000 2007 Inspection	7 Tower
Field 26	Lindsay with Valley Controller 1992 Inspection	8 Tower
Field 27	Valley (older model) 1989 Inspection	8 Tower
Field 28	Valley Std 8000 2007 Inspection	7 Tower
Field 29	Valley Model Unknown	10 Tower
Field 30	Valley Model 6000	8 Tower
Field 31	Valley Model 8000	8 Tower
Field 32	Zimmatic SN16700 Date 04/18/99	8 Tower
Field 33	Valley Model 8000	3 Tower
Field 34	Valley Std 8000 2003 Inspection	8 Tower
Field 35	Lindsay Zimmatic AIMS L67153	8 Tower
Field 36	Valley Std 8000 No Inspection Tag	7 Tower
Field 37	Valley Std 8000 SN 10202589 2002 Inspection	8 Tower
Field 38	Valley Std 8000 SN 10280888 2003 Inspection (Patterson)	3 Tower
Field 39	Valley Std 8000 No Inspection Tag	7 Tower
Field 40	Valley Std 8000 No Inspection Tag	7 Tower
Field 48	Valley Std 8000 2011 Inspection (Patterson)	4 Tower
Field 41	Valley Std 8000 2007 Inspection	7 Tower
Field 42	Valley Std 8000 2002 Inspection	7 Tower

Field 43	Valley Std 8000 2002 Inspection	7 Tower
Field 44	Valley Std 8000 2007 Inspection	7 Tower
Field 45	Valley Std 8000 2007 Inspection	7 Tower
Field 46	Wheel Line	
Field 47	Valley Std 8000 2007 Inspection	7 Tower
Field 49	Valley Std SN618	6 Towers
Field 50	TD Wheel Lines	
Field 50	TD Wheel Lines	
Field 50	TD Wheel Lines	
Field 60	Zimmatic SNL67199	8 Tower
Field 70	Valley Made 3/4/09 (Patterson)	7 Tower
Field 71	Valley Made 3/3/09 (Patterson)	7 Tower
Field 72	Valley Made 10/3/02 Order No. 10202583	8 Tower
Field 73	Zimmatic Installed 4/5/04	8 Tower

6- 1/4 mile wheel lines

728 40' x 3" joints hand line

Mainline - Portable Aluminum

500' 10"

3000' 8"

4000' 6"

5000' 4"

TOGETHER WITH ALL VALVE OPENERS, END PLUGS, RISERS, STEMS, SPRINKLER BIRDS, WIRING SWITCH PANELS, SHAFTING, HOSES, TUBING, BOWLS, SUCTION PIPE, CONES, REDUCERS, ABOVE AND BELOW GROUND PIPE, ETC., OWNED BY BEUKERS AND PERTAINING TO THE ABOVE LISTED IRRIGATION EQUIPMENT AND TOGETHER WITH ALL MAINLINE AND OTHER IRRIGATION AND PUMPING EQUIPMENT OWNED BY BEUKERS AND SITUATED ON THE REAL PROPERTY DESCRIBED IN THE ATTACHED EXHIBIT A.

POTATO STORAGE EQUIPMENT

ALL PLENUM PIPE, CONTROL PANELS, FANS, COOLING UNITS AND REFRIGERATION UNITS, OWNED BY BEUKERS AND PERTAINING AND APPURTENANT TO THE POTATO STORAGE FACILITIES SITUATED ON THE REAL PROPERTY DESCRIBED IN THE ATTACHED

MILKING EQUIPMENT

ALL MILKING AND FEEDING EQUIPMENT OWNED BY BEUKERS AND LOCATED ON THE REAL PROPERTY DESCRIBED IN THE ATTACHED EXHIBIT A, INCLUDING BUT NOT LIMITED TO MOTORS, HOPPERS, AUGERS, PIPELINES, COUPLERS, COMPRESSORS, FEED DROPS, TUBES, TANKS AND WASHERS LOCATED ON OR USED IN CONNECTION WITH THE OPERATION OF THE DAIRY FACILITIES, SITUATED ON THE REAL PROPERTY DESCRIBED IN THE ATTACHED EXHIBIT A.

EXHIBIT C - WATER RIGHTS

ANY AND ALL WATER RIGHTS BELONGING OR IN ANY WAY APPERTAINING TO THE REAL PROPERTY DESCRIBED IN THE ATTACHED EXHIBIT A, AND INCLUDING ALL INTEREST IN WEST CASSIA IRRIGATION, SOUTHWEST IRRIGATION AND ARTESIAN IRRIGATION, INC. AND INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

Idaho Department of Water Resources

Right Number	Priority Date
45-7086D	3-Dec-71
45-13788	3-Dec-71
45-10761	24-Jun-57
45-14061	3-Dec-71
45-14091	9-Sep-59
45-14101	29-Apr-70
45-2395	11-Sep-51
45-2492	19-Apr-55
45-2551B	24-Jun-57
45-2665	29-Aug-61
45-2666	29-Aug-61
45-2667	29-Aug-61
45-7086F	3-Dec-71
45-13475	30-Jun-85
45-2391	31-Oct-51
45-13504	15-Mar-61
45-2265	20-Jul-48
45-2578	29-Apr-59
45-2597	13-Jan-60
45-13627	24-Jun-57
45-13628	24-Jun-57
45-14060	3-Dec-71
45-2608B	7-Mar-60
45-7086B	3-Dec-71
45-7179	17-Jun-74
45-14100	29-Apr-70
45-13543	10-May-70
45-7062	15-May-70
45-7063	2-Jul-70
45-7182	22-Jul-74
45-14090	9-Sep-59

Artesian Irrigation, Inc.

Cert. No.	Shares
64	698.24

Exhibit D

CAFO Rights
(CAFO Permit and Application)
[to be attached].

**BEFORE THE CASSIA COUNTY PLANNING
AND ZONING COMMISSION****COPY****RESOLUTION NO. 2004-7-1**

This matter came on for hearing before the Cassia County Planning and Zoning Commission on Thursday, July 1, 2004, on an Application for Confined Animal Feeding Operation within the CAFO Overlay Zone, Application number CU040501. The hearing was held in the Burley City Council Chambers, Burley, Idaho. The application was filed by McReits, LLC, P.O. Box 465, Eden, Idaho 83325; Russell V. and Lisa Patterson, husband and wife, of 1800 Z Street, Heyburn, Idaho 83336; and John and Ruth Beukers, husband and wife, of 3257 B South 2400 East, Jerome, Idaho. Notice was provided as required by law and ordinance prior to the hearing. The application for Confined Animal Feeding Operation Permit seeks permission to develop a dairy within the CAFO Overlay Zone of Cassia County, Idaho, with a total one time animal unit capacity of 9999 animal units on a site located at 1100 South 1250 West, Cassia County, Idaho. The full legal descriptions for the CAFO and Waste Management Plan area are attached hereto as Exhibit B (Location of CAFO property) and Exhibit C (Location of Waste Management Property), and are hereby incorporated by reference as though fully set forth herein.

The Planning and Zoning Commissioners received testimony from the applicant at the hearing and reviewed, accepted and placed into evidence Exhibits 1 through 12, which are contained in the record. Three (3) written statements were received in support of the application: one from Mike Cranney, which is Exhibit 7 in the record, one from Doug Pickett, and a third from Doug Pickett for Don Pickett, which are combined in Exhibit 8 in the record. One statement was received in protest to the application from Rulon Van Tassell, which is Exhibit 9 in the record.

NOW THEREFORE, the Commission, being fully informed in the matter hereby enters its findings and decision on the application. The requirements for the application, and standards for review and approval of such an application are found in Title 9 Chapter Eleven of the Cassia County Zoning Ordinance. Those standards and the Commission's findings with regard to each are as follows:

1. Permits under this chapter apply to all Confined Animal Feeding Operations (hereinafter "CAFO") located entirely within the CAFO Overlay Zoning District (CO), the operations and waste management program of which are regulated by the Idaho Department of Agriculture or the Idaho Department of Environmental Quality. This chapter shall not apply to any Confined Animal Feeding Operation located outside the CO Zone or which is not subject to State regulation by the aforementioned agencies.

The Commission finds that the proposed CAFO, together with its waste management area is entirely located within the CAFO Overlay Zone of the County and that it is subject to the regulation of the Idaho State Department of Agriculture as a dairy operation.

2. Permits for new CAFOs located within the CAFO Overlay Zone shall not be granted

where the proposed development exceeds a density of five (5) animal units per acre and where such CAFO would contain more than 10,000 total animal units, unless a greater number is specifically authorized in a conditional use permit. In computing animal density per acre, the total number of acres within the CAFO, together with the total number of acres in the Waste Management Area (WMA) associated with the CAFO shall be used.

The Commission finds that the proposed CAFO would have a one time animal unit capacity of 9999 animal units. Further, the total acreage of the proposed CAFO and WMA is 4847 acres. This calculates to a density of 2.1 animal units per acre. The Commission finds that the proposed development meets these standards.

3. For permits in the CAFO Overlay Zone, ownership of the CAFO and Waste Management Area need not be the same. Persons applying for a permit for a new CAFO in the CAFO Overlay Zone must submit an application containing the signatures of all owners of all real property within both the Confined Animal Feeding Operation and the Waste Management Area. The issuance of a permit for a CAFO within the Confined Animal Feeding Operation Overlay Zone shall bind all owners of real property identified in the application and their heirs, successors and assigns to that real property for the duration of the permit.

The Commission finds that the owners of all real property in the proposed CAFO and WMA have joined in the application and are bound by the terms of any permit that may be issued

4. The application which is filed must contain the following information:

- a. Complete names, addresses and telephone numbers of every owner of real property within the proposed Confined Animal Feeding Operation and the Waste Management Area.
- b. The exact legal description of the real property contained within the Confined Animal Feeding Operation and Waste Management Area, including the number of acres in each area.
- c. A statement of the current and historical uses of the real property described in the application.
- d. The present zoning of all real property within the CAFO and WMA, and verification that all real property within the CAFO and the WMA are contained within the CO Zone.
- e. A narrative description describing the proposed CAFO, including the species of animals that will be confined, the number of animals that will be confined and a description of the structures and other facilities that will be required to confine, feed and care for the animals and remove the solid and liquid waste produced from the CAFO.
- f. A map showing the boundaries of the real property comprising the Confined Animal Feeding Operation and Waste Management Area, including any real property within one (1) mile of any external boundary of the Confined Animal Feeding Operation or Waste Management Area. The map, which must be drawn to a scale of not less than eight (8) inches to the mile, must show the following:
 - a. Existing land uses;
 - b. Existing ditches, canals, live streams or other bodies of water;

- c. Wells (domestic or agricultural);
- d. The dimensions and locations of barns, corrals, feed storage areas, feed storage structures, public roads, residences and other buildings within the CAFO and WMA boundaries;
- e. The location of all residences and other buildings intended for human occupancy within one (1) mile radius of the CAFO and WMA boundaries;
- f. The map must show the following distances expressed to the nearest ten (10) feet:
 - (A) Distances from external boundary lines of the Confined Animal Feeding Operation and Waste Management Area to residences or other buildings intended for human occupancy outside the CAFO or WMA boundaries.
 - (B) Distances from external boundaries of Waste Management Areas to all wells shown on the map.
 - (C) Distances from lagoons to external boundary lines of the Confined Animal Feeding Operation area or Waste Management Area to all residences or other buildings intended for human occupancy shown on the map.
 - (D) Distances from external boundary lines of the Confined Animal Feeding Operation or Waste Management Area to public highways or flood ways.
- g. A separate topographical map shall be submitted showing elevation contours at intervals of not less than twenty (20) feet.
- h. A narrative concerning the Waste Management Area including, but not limited to, the exact means and methods by which the applicant proposes to dispose of liquid and solid waste generated from the Confined Animal Feeding Operation. The narrative statement shall include a description of the means and methods by which the applicant will assure that solid and liquid waste will not escape the boundaries of the Confined Animal Feeding Operation or Waste Management Area, or enter the waters of the United States of America.
- i. A writing from the Department of Water Resources of the State of Idaho, including a profile of all water rights necessary for the operation of the Confined Animal Feeding Operation or, if those rights have not yet been granted, proof that an application for transfer or other suitable application has been filed with the Department of Water Resources which, if granted, would allow sufficient water rights to permit a lawful operation of the new Confined Animal Feeding Operation.
- j. A letter from the State of Idaho Department of Agriculture approving the design of the waste management system under grade A sanitation requirements in the case of a new dairy wishing to produce Grade A milk, and the nutrient management plan. Copies of the design of the waste management system and nutrient management plan as approved must accompany the application.
- k. A notarized statement that the applicant will, as a condition of permit approval construct and operate the Confined Animal Feeding Operation and Waste Management Area facilities in keeping with the lawful directives of the State of

Idaho Department of Agriculture with respect to location and construction of lagoons, the application of liquid and solid waste from the CAFO, and other matters within the jurisdiction of the Department of Agriculture.

- l. Letters from the Highway Districts having jurisdiction over public roads shown on the previously described map and from any canal company owning ditches or canals described on the previously described map, expressing approval of the new CAFO or conditions that should be met before approval is granted.
- m. The map accompanying the application must show the location of all corral or yard lights, and demonstrate that they have been designed to reflect downward and on to the CAFO to prevent escape of light and glare outside the boundaries of the CAFO or Waste Management Area.
- n. Compliance with all setback rules under Cassia County Code Section 9-11-8 must be demonstrated.
- o. A list of names and addresses of all property owners owning real property located within one (1) mile of the external boundaries of the CAFO and WMA.
- p. The fee on any application for a new CAFO must include a non-refundable fee in the amount of \$350.00.

The Commission finds that, generally, each of these requirements have been met

The Commission further finds that the letter from the Department of Water Resources indicates that an application for transfer has been filed and is currently under review. The approval of the proposed CAFO project should be conditioned upon the transfer of water rights, and that such transfer would allow sufficient water rights to permit lawful operation of the new Confined Animal Feeding Operation, as such operation was presented by application and testimony at the hearing.

The Idaho Department of Agriculture indicates preliminary approval of the proposed operation, and any approval of the application should include conditions that the applicants obtain final approval of the operation and waste management system for the dairy from the Department of Agriculture prior to commencing operations.

5. Setbacks for structures within the CAFO and/or WMA shall comply with the following:

- a. The lagoon or other structures containing liquid waste generated from a Confined Animal Feeding Operation shall not have an external boundary less than 1,320 feet from any residence, church, school or other building designed for human occupancy not located within the CAFO or WMA.
- b. Lagoons or other structures containing liquid waste from a CAFO area shall not have an external boundary less than 175 feet from the external property line of the CAFO or waste storage area.
- c. The external boundary of a CAFO and WMA shall not be less than 1,320 feet from any flood way as defined by the Cassia County flood damage prevention ordinance.

- d. Any structure confining animals in a CAFO, whether corral, barn or other structure, must have external boundaries no less than 100 feet from the external boundary of any public right-of-way.
- e. No corral, barn or other structure in which livestock are confined in a CAFO, or any lagoon or other structure containing liquid waste generated from a CAFO shall be located nearer than 200 feet from any well not within the boundaries of the CAFO or WMA.

Concern was raised with regard to section C above, relative to external boundary of the CAFO/WMA being not less than 1,320 feet from any floodway as defined by the Cassia County flood damage prevention ordinance. The applicants provided evidence that the area of the CAFO/WMA lies in Flood Zone "C". Flood Zone C is defined as an area of minimal flooding determined to be outside the 500-year floodplain, but still constitutes a flood way under Cassia County Ordinance. Given that the applicants' use of lands in this flood way is for land application of waste, not significantly different from historical use, the Commission finds that all of the required set backs, as contemplated by the ordinance, have been met in the applicant's plan.

6. The Confined Animal Feeding Operation application shall be submitted in the names of all owners of the real property covered by the application. The applicants must submit, in addition to other requirements previously provided by ordinance, a contract suitable in form and content, approved by the Cassia County Prosecuting Attorney's Office, Cassia County, Idaho, which binds all of the owners of the real property in the CAFO and WMA to the terms and conditions of any permit issued by Cassia County under its applicable ordinances. The Agreement must allow the owners of the CAFO to deposit liquid and solid waste generated from the CAFO on the real property of the owners of the WMA, in conformance with the nutrient management plan approved by the Idaho Department of Agriculture, in connection with the new CAFO application. The contracts must bind the owners, their successors and assigns to the real property for a minimum period of twenty (20) years. The agreement should provide that the terms and conditions of the agreement will not apply in the event that the parties to the original agreement, their heirs, successors or assigns jointly agree in writing, which writing must also provide that the CAFO would thereon cease until a new CAFO permit has been issued by Cassia County in accordance with the provisions of this chapter, which will require the submission of a new CAFO application.

A Waste Management Agreement was submitted with the Application. The Cassia County Prosecuting Attorney's Office reviewed and approved that agreement on July 15, 2004. The Commission finds that this requirement has been met by the applicants.

NOW THEREFORE, be it resolved by the Cassia County Planning and Zoning Commission, that application number CU 040501 for a Confined Animal Feeding Operation Permit, filed by McReits, LLC, P.O. Box 465, Eden, Idaho 83325; Russell V. and Lisa Patterson, husband and wife, of 1800 Z Street, Heyburn, Idaho 83336; and John and Ruth Beukers, husband and wife, of 3257 B South 2400 East, Jerome, Idaho to construct and operate a dairy within the CAFO Overlay Zone of Cassia County, Idaho, with a one time animal unit

capacity of 9999 animal units on a site located at 1100 South 1250 West, Cassia County, Idaho, be and the same is hereby granted with conditions.

This CAFO permit is granted upon the following specific conditions:

1. The Permittees shall obtain final approval on the transfer of water rights from the State Department of Water Resources prior to commencing operations, and applicants shall provide a copy of that approval of transfer of water rights to the Cassia County Planning Department confirming that such transfer will allow sufficient water rights to permit lawful operation of the new Confined Animal Feeding Operation.
2. The Permittees shall obtain final approval of the operation and waste management system for the dairy from the State Department of Agriculture prior to commencing operations, and maintain compliance with any such certification in conducting operations under the permit.
3. The CAFO must be built and operated strictly in accordance with the terms of the application and the exhibits submitted with the application as well as all applicable State and Federal regulations to which the CAFO is subject.
4. The Permittees shall obtain building permits from Cassia County for the milking barn and all structures to be built upon the premises which are covered by the International Building Code.
5. That Permittees shall not commence operations of the new CAFO or allow animals to occupy the new CAFO, without approval of the Zoning Administrator for Cassia County, Idaho, as contemplated by Section 9-11-11 of the Cassia County Zoning Ordinance.
6. That Permittees shall apply the setbacks set forth in section 9-11-8 of the Cassia County Ordinance for lagoons as and for setbacks for purposes of any and all composting operations, unless greater setbacks are required by state or federal law, rule or regulation.
7. That should Permittees fail to achieve substantial construction and/or operation of the proposed use within five (5) years of the date of signing of this Resolution, then such permit shall be subject to review by the Planning and Zoning Commission, or its successor.

NOTICE OF APPEAL RIGHTS

Pursuant to provision of Cassia County Zoning Ordinance section 9-11-16, an applicant, any person who receives a mailed notice of an application for issuance of an CAFO permit under this ordinance, or any person, whose substantial rights are affected by the issuance or denial of a CAFO permit may appeal the decision of the Planning and Zoning Commission by filing a notice of appeal stating the basis for such appeal together with a specification of the provisions of the law the decision is deemed to violate within twenty eight (28) days of the date of the signing of the Planning and Zoning Commission decision, and paying a fee of Two Hundred Dollars (\$200.00). Appeals shall be filed and heard in conformance with subsection 9-5-5J of this title of the Cassia County Zoning Ordinance.

Notice to Applicant – Right to Request Regulatory Taking Analysis

Idaho Code Section 67-8003 (2) provides that:

Upon the written request of an owner of real property that is the subject of such action, such request being filed with the clerk or the agency or entity undertaking the regulatory or administrative action not more than twenty-eight (28) days after the final decision concerning the matter at issue, a state agency or local governmental entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis prepared hereto shall comply with the process set forth in this chapter, including use of the checklist developed by the attorney general pursuant to subsection (1) of this section and shall be provided to the real property owner no longer than forty-two (42) days after the date of filing the request with the clerk or secretary of the agency whose action is questioned. A regulatory taking analysis prepared pursuant to this section shall be considered public information.

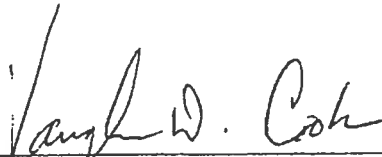
A request for a regulatory taking analysis in this matter, if requested, shall be filed with the Secretary of the Planning and Zoning Commission, in Courthouse Room # 4, Basement, 1459 Overland Avenue, Burley, Cassia County, Idaho.

DATED this 15 day of July, 2004.

Approved this date by the following vote:

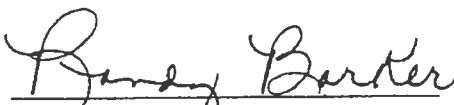
Vaughn Cook	Aye ☒	Nay ☐	Excused ☐
Dee Yeaman	Aye ☒	Nay ☐	Excused ☐
Bruce Beck	Aye ☒	Nay ☐	Excused ☐
Joyce Ward	Aye ☐	Nay ☐	Excused ☒
Clayne Zollinger, Jr.	Aye ☐	Nay ☐	Excused ☒
Rod Lake	Aye ☒	Nay ☐	Excused ☐
Rick Hawker	Aye ☒	Nay ☐	Excused ☐

PLANNING AND ZONING COMMISSION



Vaughn Cook, Chairman

ATTEST:



Randy Barker, Secretary

EXHIBIT B

LOCATION OF CAFO PROPERTY

Legal Description

PARCEL A

PARCEL NO. 1:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: ALL, SAVE AND EXCEPTING a parcel of land located in the SW1/4SW1/4, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 1, from which the South One Quarter (S1/4) corner of said Section 1 bears S89°56'14"E-2627.06 feet, THENCE S89°56'14" East along the South boundary of the SW 1/4 of said section 1 for a distance of 137.53 feet to the TRUE POINT OF BEGINNING:

THENCE North 00°08'28" West for a distance of 492.32 feet;
THENCE South 89°56'14" East parallel to the South boundary of the SW1/4 of said Section 1 for a distance of 173.89 feet;
THENCE South 00°08'28" East for a distance of 382.60 feet;
THENCE North 89°56'14" West parallel to the South boundary of the SW1/4 of said Section 1 for a distance of 9.27 feet;
THENCE South 00°08'28" East for a distance of 109.72 feet to a point on the South boundary of the SW1/4 of said Section 1;
THENCE North 89°56'14" West along the South boundary of the SW1/4 of said Section 1 for a distance of 164.63 feet to the TRUE POINT OF BEGINNING.

Section 12: W1/2, SAVE AND EXCEPTING a parcel of land located in the SW1/4SW1/4 of Section 12, more particularly described as follows:

Commencing at the Southwest corner of said Section 12 and being the TRUE POINT OF BEGINNING;
THENCE North 00°15'20" East along the West boundary of the SW1/4 of said Section 12 for a distance of 980.00 feet;
THENCE South 89°44'40" East for a distance of 25.00 feet;
THENCE South 19°09'58" East for a distance of 152.27 feet to a point on the arc of a non-tangent curve left;
THENCE Southeasterly along the arc of the curve left for a distance of 866.07 feet, said arc having a radius of 1317.58 and a long chord bearing and distance of South 39°17'48" East for 850.56 feet;

EXHIBIT B

LOCATION OF CAFO PROPERTY

Legal Description

PARCEL A

PARCEL NO. 1:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: ALL, SAVE AND EXCEPTING a parcel of land located in the
SW1/4SW1/4, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 1, from which
the South One Quarter (S $\frac{1}{4}$) corner of said Section 1 bears S89°56'14"E-
2627.06 feet, THENCE S89°56'14" East along the South boundary of the
SW $\frac{1}{4}$ of said section 1 for a distance of 137.53 feet to the TRUE POINT
OF BEGINNING:

THENCE North 00°08'28" West for a distance of 492.32 feet;
THENCE South 89°56'14" East parallel to the South boundary of the
SW $\frac{1}{4}$ of said Section 1 for a distance of 173.89 feet;
THENCE South 00°08'28" East for a distance of 382.60 feet;
THENCE North 89°56'14" West parallel to the South boundary of the
SW $\frac{1}{4}$ of said Section 1 for a distance of 9.27 feet;
THENCE South 00°08'28" East for a distance of 109.72 feet to a point on
the South boundary of the SW $\frac{1}{4}$ of said Section 1;
THENCE North 89°56'14" West along the South boundary of the SW $\frac{1}{4}$ of
said Section 1 for a distance of 164.63 feet to the TRUE POINT OF
BEGINNING.

Section 12: W1/2, SAVE AND EXCEPTING a parcel of land located in the
SW1/4SW1/4 of Section 12, more particularly described as follows:

Commencing at the Southwest corner of said Section 12 and being the
TRUE POINT OF BEGINNING;
THENCE North 00°15'20" East along the West boundary of the SW1/4 of
said Section 12 for a distance of 980.00 feet;
THENCE South 89°44'40" East for a distance of 25.00 feet;
THENCE South 19°09'58" East for a distance of 152.27 feet to a point on
the arc of a non-tangent curve left;
THENCE Southeasterly along the arc of the curve left for a distance of
866.07 feet, said arc having a radius of 1317.58 and a long chord bearing
and distance of South 39°17'48" East for 850.56 feet;

THENCE South 00°01'00" West for a distance of 178.00 feet to a point on the South boundary of the SW1/4 of Section 12;
THENCE North 89°59'00" West along the South boundary of the SW1/4 of Section 12 for a distance of 618.00 feet to the TRUE POINT OF BEGINNING.

Section 13: E1/2

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 17: ALL

Section 18: N¼, SE¼, SW¼

Section 21: NE¼

Section 22: ALL

Section 27: NW1/4, NW1/4SW1/4

PARCEL NO. 2:

Easement for the benefit of Parcels No. 1 as created by "Easement For Irrigation Pipeline" dated February 28, 1991 and recorded March 25, 1991 as Instrument No. 212560 on Film No. 224, records of Cassia County, Idaho, over and across the NW1/4 of Section 21, Township 12 South, Range 21 East of the Boise Meridian, Cassia County, Idaho.

PARCEL NO. 3:

Easement for the benefit of Parcels No. 1 as created by "Easement for Irrigation Water Conveyance", dated February 28, 1991 and recorded January 22, 1992 as Instrument No. 217173 on Film No. 231, records of Cassia County, Idaho, over and across the W1/2 of Section 13, Township 12 South, Range 20 East of the Boise Meridian, Cassia County, Idaho.

PARCEL NO. 4:

Easement for the benefit of Parcels No. 1 as created by Easement Agreement (Irrigation Equipment) by and between Golden Valley Land & cattle Co., an Idaho corporation ("Golden Valley") and Don McFarland and Carol McFarland, husband and wife (collectively, "McFarland") dated July 25, 1996 and recorded July 26, 1996 as Instrument No. 244159 on Film No. 279, records of Cassia County, Idaho, More particularly described as follows:

TOWNSHIP 12 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN, CASSIA COUNTY, IDAHO

Section 12: A parcel of land located in the SW1/4SW1/4, more particularly described as follows:

Commencing at the Southwest corner of said Section 12;
THENCE South 89°59'00" East for 618.00 feet;
THENCE North 00°01'00" East for 38.86 feet to a point which is the
TRUE POINT OF BEGINNING;
THENCE South 29°58'12" West for a distance of 16.00 feet;
THENCE North 89°59'00" West for a distance of 564.47 feet;
THENCE North 00°10'28" West for a distance of 24.09 feet;
THENCE North 89°49'32" East for a distance of 49.84 feet;
THENCE North 00°15'24" West for a distance of 46.00 feet;
THENCE North 89°37'08" East for a distance of 30.59 feet;
THENCE South 62°39'33" East for a distance of 99.82 feet;
THENCE South 89°45'11" East for a distance of 385.89 feet;
THENCE North 29°58'12" East for a distance of 35.57 feet;
THENCE South 00°01'00" West for a distance of 40.06 feet to the TRUE

POINT OF BEGINNING.

EXHIBIT C

LOCATION OF WMA PROPERTY

PARCEL B

PARCEL NO. 1:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 29: SE $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$

PARCEL NO. 2:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 32: NW $\frac{1}{4}$ NE $\frac{1}{4}$

PARCEL NO. 3:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 29: SW $\frac{1}{4}$

Section 32: NE $\frac{1}{4}$ NW $\frac{1}{4}$

EXCEPTING THEREFROM, that portion of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 29, more particularly described as follows:

Beginning at the Southwest corner of said Section 29, said corner marked by a U.S. Bureau of Land Management pipe; thence North 89°57'00" East along section line for 1335.42 feet to the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence North 30°50'52" East for 37.21 feet to a $\frac{1}{2}$ inch rebar which shall be the True Point of Beginning;
Thence North 0°14'26" West for 405.34 feet to a $\frac{1}{2}$ inch rebar;
Thence South 89°59'01" East for 185.42 feet to a $\frac{1}{2}$ inch rebar;
Thence South 0°07'21" West for 399.75 feet to a $\frac{1}{2}$ inch rebar;
Thence South 88°06'35" West for 182.97 feet to the Point of Beginning.

PARCEL NO. 4:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 31: E $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{4}$

EXCEPTING THEREFROM that part of the SE $\frac{1}{4}$ N $\frac{1}{2}$ E $\frac{1}{4}$ lying South and West
of the Oakley-Murtaugh Road.

PARCEL NO. 5:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 32: W $\frac{1}{4}$ N $\frac{1}{2}$ W $\frac{1}{4}$

PARCEL NO. 6:

Right of way for buried irrigation pipeline as created by Right of Way Grant Serial No. I-17060, recorded May 5, 1997 as
Instrument No. 243813, records of Cassia County, Idaho over the following described land:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 31: NE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 32: NW $\frac{1}{4}$ SW $\frac{1}{4}$

PARCEL NO. 7:

Right of way for road and irrigation ditch as created by Right of Way Grant Serial No. I-17059, recorded May 5, 1997 as
Instrument No. 248816, records of Cassia County, Idaho, over the following described land:

TOWNSHIP 13 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 5: Lots 3 & 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 6: SE $\frac{1}{4}$ N $\frac{1}{2}$ E $\frac{1}{4}$

PARCEL NO. 8:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 20: NE $\frac{1}{4}$

PARCEL NO. 9:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 20: SE $\frac{1}{4}$

PARCEL NO. 10:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 29: E $\frac{1}{2}$ NE $\frac{1}{4}$

PARCEL NO. 11:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 29: W $\frac{1}{2}$ NE $\frac{1}{4}$

PARCEL NO. 12:

Right-of-Way for irrigation pipeline as created by Right-of-Way Grant Serial No. I-17761, recorded May 5, 1997 as Instrument No. 248817, records of Cassia County, Idaho, over the following described land:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 32: SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$

TOWNSHIP 13 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 5: W $\frac{1}{2}$ NW $\frac{1}{4}$

PARCEL NO. 13:

Right-of-Way for use of an existing irrigation ditch and concrete diversion as created by Right-of-Way Serial No. I-20080, recorded May 5, 1997 as Instrument No. 248820, records of Cassia County, Idaho, over the following described land:

TOWNSHIP 13 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 5: NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$

PARCEL NO. 14:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 7: Lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$

PARCEL NO. 15:

Pipeline Easement as created by Easement recorded April 24, 1980 as Instrument No. 125554 on Film No. 134, records of Cassia County, Idaho, over a strip of land 20 feet in width, the West line of which is described as follows:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 19 and 30: Beginning at the S $\frac{1}{4}$ section corner of said section 30, which point is marked by a U.S. Government Brass Cap and shall be the point of Beginning;
Thence North 0°09'16" West along the $\frac{1}{4}$ section line for 5265.81 feet to the N $\frac{1}{4}$ section corner of Section 30, said point marked by a U.S. Government Brass Cap;
Thence North 2°46'06" West for 675.27 feet to a point which is 35 feet West of the $\frac{1}{4}$ section line,
Thence North 0°12'10" East parallel with the $\frac{1}{4}$ section line to the North boundary of Section 19 which point shall be the terminus of said pipe line easement, said terminus point lying 35 feet West and on section line from the N $\frac{1}{4}$ section corner brass cap in Section 19.

PARCEL NO. 16:

Pipeline Easement as created by Easement recorded April 16, 1980 as Instrument No. 125297 on Film No. 133, records of Cassia County, Idaho, over a strip of land 20 feet in width, the center line of which is described as follows:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 18: Beginning at the N $\frac{1}{4}$ section corner of said Section 18, said point marked by a U.S. Government Brass Cap and shall be the Point of Beginning;
Thence South 1°11'19" East for 1335.21 feet to a point;
Thence South 0°06'10" West for 2599.52 feet to a point;
Thence South 2°34'32" West for 1335.58 feet to a point on the South section line of said Section 18; said point being the terminus point of said right-of-way and lying 26 feet West of the U.S. Government Brass Cap at the S $\frac{1}{4}$ section corner of said Section 18.

PARCEL NO. 17:

Right-of-Way for well and buried irrigation pipeline as created by Right of Way Grant Serial No. I-16386 recorded May 5, 1997 as instrument 248815 records of Cassia County, Idaho, over the following described land:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 31: W $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$

PARCEL NO. 18:

Right-of-Way for road as created by Right-of-Way Grant Serial No. I-16437, recorded May 5, 1997 as instrument No. 248815, records of Cassia County, Idaho, over the following described land:

TOWNSHIP 12 SOUTH, RANGE 21 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 31: W $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$

296913
CASSIA COUNTY, IDAHO
CLARRY A. MICKELSEN
RECORDER
FEE NE DEPUTY 40
2007 JUL 16 PM 2 27
RECORDED AT THE REQUEST OF
CASSIA COUNTY COMMISSIONER

BEFORE THE CASSIA COUNTY PLANNING
AND ZONING COMMISSION

RESOLUTION NO. 2007-06-1

This matter came on for hearing before the Cassia County Planning and Zoning Commission on Thursday, May 17, 2007, on an Application for Confined Animal Feeding Operation within the Prime Agricultural Zone, Application number CAFO #070401. The hearing was held in the District Courtroom of the Cassia County Courthouse, 1459 Overland Avenue, Burley, Idaho. The application was filed by John and Ruth Beukers at 3831 North 3500 East, Kimberly, Idaho 83341.

Notice was provided as required by law and ordinance prior to the hearing. The application for Confined Animal Feeding Operation (hereinafter "CAFO") Permit seeks permission to develop a Holstein cow Dairy Operation within the Prime Agricultural Zone of Cassia County, Idaho, with a total one time animal unit capacity of 7,260 Cassia County animal units on a site located at approximately 1100 South 1300 West, Cassia County, Idaho. The subject property of the application is known by the following legal description:

LEGAL DESCRIPTION OF CAFO PROPERTY AND WASTE MANAGEMENT AREA:

The legal description for the CAFO and Waste Management Area is set forth in Exhibit A, which exhibit consists of three (3) pages, all of which are attached hereto and incorporated herein by reference as though fully set forth in this document.

Commissioners Lake, Paskett, Beck, James and Darrington participated in hearing the application. Commissioner Lake, Commission Chair conducted the hearing. Commissioners Ward and Brackenbury were not present and did not participate in the hearing. Upon conflict poll of the Commission being conducted, no disclosure of conflict of interest was offered by any Commissioner.

The Planning and Zoning Commissioners received testimony from the applicant at the hearing and reviewed, accepted and placed into evidence Exhibits 1 through 19, which are contained in the record.

NOW THEREFORE, the Commission, being fully informed in the matter hereby enters its findings and decision on the application. The requirements for the application and standards for review and approval of such an application are found in Title 9 Chapter 11 of the Cassia County Zoning Ordinance, as currently amended. Those standards and the Commission's findings with regard to each are as follows:

1. Requirements for permits under Chapter 11, Title 9, Cassia County Code apply to all Confined Animal Feeding Operations (hereinafter "CAFO") located in Cassia County.

The Commission finds that the proposed CAFO, together with its proposed waste management area is entirely located in Cassia County and within the County's Prime Agricultural Zone. Therefore, the proposed matter is governed by provisions of Chapter 11, Title 9, Cassia County Code.

2. Permits for new CAFOs located within Cassia County's Prime Agricultural Zone shall not be granted where the proposed development exceeds a density of two (2) animal units per acre and where such CAFO would contain more than seven thousand five hundred (7,500) total animal units. In computing animal density per acre, the total number of acres within the CAFO, together with the total number of acres in the Waste Management Area (WMA) associated with the CAFO shall be used.

The Commission finds that the proposed CAFO would have a one time animal unit capacity of Seven Thousand Two Hundred Sixty (7,260) Cassia County animal units. Further, the total acreage of the proposed CAFO and WMA which is owned by the applicants and attributed to this proposed operation is Three Thousand Six Hundred Thirty (3,630) acres. The Commission finds that this proposal meets County regulations for density, with the proposed density of this operation being at about two (2) animal units per acre density. Further, the Commission finds that the total animal unit size for this proposed operation does not exceed the County's regulatory cap for this zone, with a total proposed size of 7,260 animal units in a zone for which the cap is 7,500 animal units.

3. For CAFO permits, ownership of the CAFO and Waste Management Area need not be the same. Persons applying for a permit for a new CAFO must submit an application containing the signatures of all owners of all real property within both the Confined Animal Feeding Operation and the Waste Management Area. The issuance of a CAFO permit shall bind all owners of real property identified in the application and their heirs, successors and assigns to that real property for the duration of the permit.

The Commission finds that the owners of all real property in the proposed CAFO and WMA have joined in the application and are bound by the terms of any permit that may be issued.

4. An application must be filed with Cassia County Office of the Zoning Administrator in order to seek a permit to establish a new CAFO. The application must be in written form, on a form approved by the Cassia County Planning and Zoning Commission.

Written application was made in an approved form. In review of the application and its contents, the Commission finds that the application is essentially complete.

5. In addition to all other regulations specified in Title 9, all new confined animal feeding operations (CAFOs) shall comply with the following setbacks and other provisions:

A. B Zones: All new CAFOs shall be located outside the defined areas of impact of any incorporated municipality within Cassia County as identified on the zoning map of Cassia County (B zones).

B. Subdivisions: The closest inside edge of the retaining wall of any new CAFO waste lagoon, or other structures containing liquid waste, and the

outside edge of any composting yard of any new CAFO shall be located at least one thousand three hundred twenty feet (1,320') from any legally platted subdivision or planned unit development with visible improvements such as a highway district or county approved and accepted road.

C. Dwellings: The closest inside edge of the retaining wall of any new CAFO waste lagoon or other structure containing liquid waste, or the outside edge of any composting yard for the waste generated from a confined animal feeding operation shall be located at least one thousand three hundred twenty feet (1,320') from any existing dwelling, church, school or any other building designed for human occupancy, not located within the designated CAFO site.

D. Property Line: The closest inside edge of the retaining wall of the waste lagoon, or other structures containing liquid waste, and the outside edge of any composting yard of any new CAFO shall be located at least four hundred feet (400') inside the existing property lines of the designated CAFO site.

E. Corrals: The outside edge of all corrals of any new CAFO shall be located at least four hundred feet (400') from the nearest existing dwelling, church, school, or any other building used for human occupancy, not located within the designated CAFO site.

F. Proximity to Right of Way: Any structure confining animals in a CAFO, whether barn, corral, or other structure, must have external boundaries no less than one hundred feet (100') from the external boundary of any public right of way.

G. Health Authority: Locations of waste lagoons, corrals, wells, and septic systems of any new CAFO shall conform to state of Idaho and health authority regulations and specifications.

H. Lights: lights for all new CAFOs shall be placed and shielded to direct the light source down onto and inside the property lines of the CAFO.

I. Floodway: The external boundary of a CAFO shall not be less than one thousand three hundred twenty feet (1,320') from any floodway as defined by the Cassia County flood damage prevention ordinance [Title 12, Cassia County Code] and corresponding map.

J. Water: No CAFO shall be located within an area that is a high water table area or wetland area in regards to the water table level as determined by a soil survey map from the natural resources conservation service (NRCS).

K. Proximity to Well: No barn, corral or other structure in which livestock are confined in a CAFO, or any lagoon or other structure containing liquid waste generated from a CAFO, or the outside edge of any composting yard for the waste generated from a CAFO, shall be located nearer than four hundred feet (400') from any well not located within the boundaries of the designated CAFO site.

L. Proximity to Residential Agricultural, Agricultural Residential, or Buffer Zones: Any structure confining animals in a CAFO, whether barn, corral, or other structure, must have external boundaries no less than five thousand two hundred eighty feet (5,280') from the external boundary of any land in Cassia County that is zoned Residential Agricultural, Agricultural Residential or Buffer Zone.

Based upon information contained in the application and as the proposal was presented to the Commission, the Commission finds that all of the required set backs, as contemplated by the ordinance, have been met in the applicant's plan. Conditioned upon the requirement that the CAFO be built and operated strictly in accordance with the terms of the zoning regulations, the application and the exhibits submitted with the application as well as all applicable county, state and federal regulations to which the CAFO is subject, then this proposal adequately secures that these standards will be met.

6. The Confined Animal Feeding Operation application shall be submitted in the names of all owners of the real property covered by the application. The applicants must submit, in addition to other requirements previously provided by ordinance, a contract suitable in form and content, approved by the Cassia County Prosecuting Attorney's Office, Cassia County, Idaho, which binds all of the owners of the real property in the CAFO and WMA to the terms and conditions of any permit issued by Cassia County under its applicable ordinances. The Agreement must allow the owners of the CAFO to deposit liquid and solid waste generated from the CAFO on the real property of the owners of the WMA, in conformance with the nutrient management plan approved by the Idaho Department of Agriculture, in connection with the new CAFO application. The contracts must bind the owners, their heirs, successors and assigns to the real property. In the event that such waste management area contract is terminated for any reason, the CAFO owner or operator must substitute an equal acreage of real property, under appropriate contract, in order to continue operations at the same level. Should CAFO owner or operator fail to substitute an appropriate acreage of real property, then the CAFO shall immediately reduce operations to the necessary level to be in compliance with the two (2) animal units per acre maximum density. If it becomes necessary to cease operations because of insufficient acreage, then operations shall halt until a new CAFO permit has been issued by Cassia County in accordance with the provisions of this chapter, which will require the submission of a new CAFO application. All such acres shall be obligated by ownership or contract, pursuant to this section, for use by the proposed CAFO and shall not be available for use by any other CAFO, as long as this obligation continues.

The Commission finds that the application purports to be submitted in the names of all owners of the real property covered by the application and as has been made part of the CAFO site or waste management area.

7. The Commission shall carefully consider all of the evidence and testimony presented in this matter, and thereafter shall approve, disapprove, or approve with conditions the application by written decision. If the application is approved, or approved with conditions, then a CAFO permit shall issue, with such appropriate conditions as the

Commission determines, recognizing that upon meeting the above stated standards, an application for a new CAFO permit should be approved.

The Commission finds after careful review of the evidence submitted in the application, that Applicant will, or can, upon compliance with certain conditions, meet the standards required for a CAFO facility within the Prime Agricultural Zone. The Commission finds that standards applicable to this type of operation by local, state and federal agencies having oversight of this type of use are being adequately addressed.

NOW THEREFORE, be it resolved by the Cassia County Planning and Zoning Commission, that application number CAFO #070401 for a Confined Animal Feeding Operation Permit, filed by John and Ruth Beukers at 3831 North 3500 East, Kimberly, Idaho 83341 to construct and operate a Holstein cow Dairy Operation within the Prime Agricultural Zone of Cassia County, Idaho, with a one time total Cassia County animal unit capacity of Seven Thousand Two Hundred Sixty (7,260) animal units on a site located at approximately 1100 South 1300 West, Cassia County, Idaho, (said property being more fully described and set forth hereinbefore) be and the same is hereby granted, to run with the land, and upon compliance with conditions.

This CAFO permit is granted based upon maintained compliance with the following specific conditions:

1. The CAFO must be built and operated strictly in accordance with the terms of the application and the exhibits submitted with the application as well as all applicable State and Federal regulations to which the CAFO is subject.
2. That Permittee is permitted for a total capacity of Seven Thousand Two Hundred Sixty (7,260) Cassia County animal units by this CAFO permit.
3. That Permittee shall file with the Cassia County Planning Office the letter of confirmation of the Idaho State Department of Agriculture's final approval of the nutrient management plan for the proposed facility, prior to commencing operations, and maintain compliance with any such certification in conducting operations under the permit.
4. That Permittee shall obtain final approval from the Idaho State Department of Water Resources of the transfer of water rights prior to commencing operations, and Permittee shall provide a copy of that approval of transfer of water rights to the Cassia County Planning and Zoning Department confirming that such transfer will allow sufficient water rights to permit lawful operation of the new Confined Animal Feeding Operation.
5. That Permittee, in design, construction, and operation of the facility, shall maintain full compliance with all provisions of federal, state and county laws, ordinances, rules and regulations, whether specifically set forth herein or not, as are applicable to this type of

operation. Determination by the Commission to not specifically state, as a condition herein, any law, rule or regulation does not operate as a waiver of Permittee's requirement to comply with such law, rule or regulation.

6. That Permittee shall obtain approval from the Cassia County Building Inspector, including the obtaining of any required building permits, before locating any fixtures or buildings on the site.

7. That Permittee shall design, construct and maintain sufficient berming around the proposed site to contain site waste run off and to prevent run-on water at the site.

8. That Permittee shall maintain the site and keep it clean of all debris by removing such debris to a suitable permanent disposal site.

9. That Permittee shall contract for the removal of dead animals from the site, with such contract providing for weekly pickup and removal of dead animals. Further, that pending removal of dead animals from the site, the Permittee shall locate all dead animals to a designated and specific area on the facility site that will minimize odor and fly effects upon neighboring residences and uses.

10. That Permittee shall prepare and present to the Cassia County Planning Office a closure plan detailing clean up of the site in event of closure, whether planned or catastrophic, such plan to be presented prior to commencing operations.

11. That upon termination of use of this site as a CAFO, the Permittee shall remove all animal waste from the site, and land apply such waste in an agronomically feasible manner.

12. That Permittee shall file an annual report with the Cassia County Building Department setting forth total animal units on the permitted site, and shall file supplemental reports of total animal units upon reasonable request by the Cassia County Zoning Administrator.

13. That Permittee shall allow agents of the County to enter upon his property for purposes of determining compliance with these conditions and other applicable County regulations; and Permittee shall fully cooperate with agents of the County in such compliance audits.

14. The Planning and Zoning Commission reserves all right and authority to review and revisit this permit to assure compliance, conformance and cooperation in meeting the provisions of county code and conditions applicable to this permit; and to consider minor adjustments to the permit to avoid undue hardship that are not the result of the actions of the permittee; and to avoid matters contrary to the public interest.

15. The Permittees shall obtain a letter of final approval of the operation and waste management system for the dairy under grade A sanitation requirements from the State Department of Agriculture prior to commencing operations, and maintain compliance with any such

certification in conducting operations under the permit. The Permittee shall submit this letter approving the design of the waste management system to the County Zoning Administrator prior to commencing operations.

16. That Permittees shall not commence operations of the new CAFO or allow animals to occupy the new CAFO, without approval of the Zoning Administrator for Cassia County, Idaho, as contemplated by Section 9-11-11 of the Cassia County Zoning Ordinance.

17. That should Permittees fail to achieve substantial construction and/or operation of the proposed use within five (5) years of the date of signing of this Resolution, then such permit becomes void and of no effect. Permittee may, if additional time is required to begin construction, request review by the Planning and Zoning Commission, or its successor, relative to an extension of time to perform.

18. That upon Van Tassel's vacating of their property, which they sold to permittee and as is being utilized for waste management acreage for this permit, and the transfer of possession thereof by Van Tassel to Permittee, then the Van Tassel "grandfather right" to operate a dairy shall be vacated by Permittee and shall cease to exist, being subsumed by this permit in expansion of a non-conforming use by following the permitting process as outlined in county regulation.

19. That Permittee shall obtain a written letter or written document from either Tugaw or Pickett which: a) identifies a specific 253 acres to complete the nutrient management plan for this project; b) indicates willingness to allow use of such acreage for nutrient management practices related to this project; and c) affirms that such acreage is not under obligation as waste management acreage for any other permitted CAFO operation. Also, that said letter or document be filed with the Cassia County Planning and Zoning Department prior to commencing operations.

NOTICE OF APPEAL RIGHTS

Pursuant to provision of Cassia County Zoning Ordinance section 9-11-19, an applicant, any person who receives a mailed notice of an application for issuance of an CAFO permit under this ordinance, or any person, whose substantial rights are affected by the issuance or denial of a CAFO permit may appeal the decision of the Planning and Zoning Commission by filing a notice of appeal stating the basis for such appeal together with a specification of the provisions of the law the decision is deemed to violate with in twenty eight (28) days of the date of the signing of the Planning and Zoning Commission decision, and paying the appropriate fee therefor, as set by the Board of County Commissioners. Appeals shall be filed and heard in conformance with subsection 9-5-5J of this title of the Cassia County Zoning Ordinance.

Notice to Applicant - Right to Request Regulatory Taking Analysis

Idaho Code Section 67-8003 (2) provides that:

Upon the written request of an owner of real property that is the subject of such action, such request being filed with the clerk or the agency or entity undertaking the regulatory or administrative action not more than twenty-eight (28) days after the final decision concerning the matter at issue, a state agency or local governmental entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis prepared hereto shall comply with the process set forth in this chapter, including use of the checklist developed by the attorney general pursuant to subsection (1) of this section and shall be provided to the real property owner no longer than forty-two (42) days after the date of filing the request with the clerk or secretary of the agency whose action is questioned. A regulatory taking analysis prepared pursuant to this section shall be considered public information.

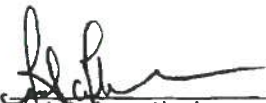
A request for a regulatory taking analysis in this matter, if requested, shall be filed with the Secretary of the Planning and Zoning Commission, in Courthouse Room # 4, Basement, 1459 Overland Avenue, Burley, Cassia County, Idaho.

DATED this 17 day of June, 2007.

Approved on the above set forth date by the following vote:

Rod Lake	Aye ☒	Nay ☐	Excused ☐
Jim Paskett	Aye ☒	Nay ☐	Excused ☐
Bruce Beck	Aye ☐	Nay ☐	Excused ☐
Joyce Ward	Aye ☐	Nay ☐	Excused ☐
Brandon Brackenbury	Aye ☒	Nay ☐	Excused ☐
Dennis L. James	Aye ☒	Nay ☐	Excused ☐
Mark Darrington	Aye ☒	Nay ☐	Excused ☐

CASSIA COUNTY, IDAHO
PLANNING AND ZONING COMMISSION


Rod Lake, Chairman

ATTEST:

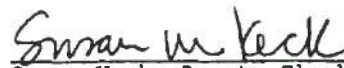

Susan Keck, Deputy Clerk and
Administrative Assistant to the Commission

EXHIBIT A

The CAFO site is located at the following legal address:

Township 12 S Range 21 E Section 19
NW1/4

The Waste Management acreage is located at the following legal addresses:

Township 12 S Range 21 E Section 19
Lots 1-4 E1/2W1/2

Township 12 S Range 21 E Section 19
SE1/4

Township 12 S Range 21 E Section 20
SW1/4

Township 12 S Range 21 E Section 21
E1/2NW, N1/2SE

Township 12 S Range 21 E Section 21
W1/2NW

Township 12 S Range 21 E Section 21
SW1/4, SWSE Less T 8625

Township 12 S Range 21 E Section 21
T 8625 (SWSW)

Township 12 S Range 21 E Section 28
E1/2NE, SWNE

Township 12 S Range 21 E Section 28
NWNE, N1/2NW

Township 12 S Range 21 E Section 28
S1/2NW, SW1/4

Township 12 S Range 21 E Section 30
E1/2

Township 12 S Range 21 E Section 33
NWNW

Township 12 S Range 20 E Section 2

E1/2, SAVE AND EXCEPT a tract of land located in the NW1/4NE1/4 of
Section 2, more particularly described as follows:

Commencing at the North $\frac{1}{4}$ corner of said Section 2, which is the True Point of Beginning and from which the Northeast corner of Section 2 bears South $89^{\circ}48'00''$ East for 2631.56 feet;
Thence South $89^{\circ}48'00''$ East along the North boundary of the NE1/4 of Section 2 for a distance of 662.00 feet;
Thence South $26^{\circ}12'51''$ East for a distance of 149.89 feet to a point on the arc of a curve left;
Thence Southwesterly along the arc of the curve left for a distance of 854.55 feet, said arc having a radius of 1323.65 feet and a long chord bearing and distance of South $45^{\circ}17'27''$ West for 839.79 feet;
Thence North $63^{\circ}07'25''$ West for a distance of 145.07 feet to a point on the West boundary of the NE1/4 of Section 2;
Thence North $00^{\circ}10'27''$ West along the West boundary of the NW1/4NE1/4 of Section 2 for a distance of 662.00 feet to the True Point of Beginning.

ALSO SAVE AND EXCEPT the following described tract:

Beginning at the Northwest corner of said Section 2, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;
Thence South 00°21'43" East along the East line of Section 2 for a distance of 785.80 feet;
Thence North 89°51'39" West for a distance of 25.00 feet to a 1/2 inch rebar;
Thence along a non-tangent curve to the left for a distance of 1119.43 feet to a 1/2 inch rebar, said curve having a radius of 1402.97 feet and a central angle of 45°42'59" and a long chord bearing of North 45°35'45" West for a distance of 1089.97 feet;
Thence North 00°21'43" West for a distance of 25.00 feet to the North line of Section 2;
Thence South 89°51'39" East along the North line of Section 2 for a distance of 798.90 feet to the Point of Beginning.

Section 2: W1/2 SAVE AND EXCEPT the following described tract:

Beginning at the North 1/4 section corner of said Section 2, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;
Thence South 00°13'57" East along the East line of the NW1/4 for a distance of 731.66 feet to a 1/2 inch rebar;
Thence North 89°52'00" West for a distance of 25.00 feet to a 1/2 inch rebar;
Thence along a non-tangent curve to the left for a distance of 1056.23 feet to a 1/2 inch rebar, said curve having a radius of 1403.26 feet and a central angle of 43°07'34" with a long chord bearing of North 46°37'27" West for a distance of 1031.47 feet;
Thence North 00°13'57" West for a distance of 25.00 feet to the North line of Section 2;
Thence South 89°52'00" East along the North line of Section 2 for a distance of 771.87 feet to the Point of Beginning.

Township 12 S Range 20 E

Section 3: ALL

Section 4: E1/2, SW1/4, S1/2NW1/4

EXCEPTING THEREFROM the following described tract:

Beginning at the Southwest corner of said Section 4, said corner marked by a US GLO Iron pipe with brass cap which shall be the Point of Beginning;
Thence North 00°02'22" East along the West line of Section 4 for a distance of 1327.62 feet to a 1/2 inch rebar;
Thence North 89°51'19" East for a distance of 2154.55 feet to a 1/2 inch rebar;
Thence South 00°01'43" West for a distance of 1301.59 feet to a 1/2 inch rebar;
Thence South 00°01'43" West for a distance of 32.21 feet to the South line of Section 4;
Thence North 89°58'51" West along the South line of Section 4 for a distance of 2154.79 feet to the Point of Beginning.

ALSO EXCEPTING from said Sections 3 and 4 the following described tract:

Beginning at the Southwest corner of said Section 3, said corner marked by a US
GLO Iron pipe with brass cap which shall be the Point of Beginning;
Thence North 89°26'28" West along the South line of Section 4 for a distance of
1526.93 feet;
Thence North 00°13'14" West for a distance of 24.56 feet to a ½ Inch rebar;
Thence North 00°13'14" West for a distance of 1311.57 feet to a ½ Inch rebar;
Thence North 89°50'15" East for a distance of 2400.58 feet to a ½ Inch rebar;
Thence South 00°24'13" West for a distance of 28.10 feet to a ½ Inch rebar;
Thence North 89°56'02" East for a distance of 777.17 feet to a ½ Inch rebar;
Thence South 74°17'05" East for a distance of 73.81 feet to a ½ Inch rebar;
Thence South 38°51'17" East for a distance of 388.90 feet to a ½ Inch rebar;
Thence South 33°15'30" East for a distance of 871.26 feet to a ½ Inch rebar;
Thence South 01°32'03" West for a distance of 275.93 feet to a ½ Inch rebar;
Thence South 01°32'03" West for a distance of 23.06 feet to the South line of
Section 3;
Thence North 89°32'12" West along the South line of Section 3 for a distance of
2430.44 feet to the Point of Beginning.

Township 12 S Range 20 E

Section 4: N1/2NW1/4, EXCEPT

Tract I

Beginning at the Northwest corner of NW1/4;
Thence South 470 feet;
Thence West 270 feet;
Thence North 470 feet;
Thence East 270 feet to the Point of Beginning.

Tract II

Beginning at the Southwest corner of the NW1/4NW1/4 which is the Point of
Beginning;
Thence North 25 feet;
Thence East 250 feet;
Thence South 25 feet;
Thence West 250 feet to the Point of Beginning.

RECORDED AT THE REQUEST OF
Cassia County
Planning & Zoning

2007 JUN 8 PM 1 20

FEE *NC* DEPUTY *RB*

CASSIA COUNTY, IDAHO
LARRY A. MICKELSEN
RECORDER

316356

BEFORE THE CASSIA COUNTY
PLANNING AND ZONING COMMISSION

RESOLUTION NO. 2012-006
[Amending Resolution No. 2007-06-1]

CASSIA COUNTY
Recorded for:
CASSIA COUNTY COMMISSIONER
2:26:58 pm 07-19-2012
2012-003325
No. Pages: 3 Fee: \$
JOSEPH W. LARSEN
County Clerk
Deputy: THERESA

This matter came before the Cassia County Planning and Zoning Commission on Thursday, June 21, 2012, on the written request of Robert E. Williams, attorney for Golden Valley Dairy, LLC and its lessee, Double B Dairy, LLC, which written request was received by Cassia County on May 21, 2012.

This request is for an amendment of the permit to extend the time to develop the permit granted by Cassia County Planning and Zoning Resolution No. 2007-06-1.

Condition #17 of Resolution No. 2007-061 states:

"17. That should Permittees fail to achieve substantial construction and/or operation of the proposed use within five (5) years of the date of signing of this Resolution, then such permit becomes void and of no effect. Permittee may, if additional time is required to begin construction, request review by the Planning and Zoning Commission, or its successor, relative to an extension of time to perform."

The permit was issued on June 7, 2007, and by operation of its terms would expire in June 2012, if not substantially constructed or in operation. Golden Valley Dairy, LLC, through legal counsel, advised the Commission that economic hardship that has affected the dairy industry has caused delay in beginning construction of the proposed dairy. Based upon such economic hardship, Applicant is requesting a four (4) year extension to substantially construct and/or begin operations under the new permit.

The Planning and Zoning Commission after review of the proposal to extend the time to substantially construct or have the dairy in operation, and having taken comment from Mr. Beukers and Mr. Lothspeich, his attorney, closed the matter to taking of evidence and testimony and deliberated toward a decision. In re-opening and considering this matter, and good cause appearing therefore;

IT IS HEREBY THE DECISION of the Cassia County Planning and Zoning Commission to grant the request of Golden Valley Dairy, LLC and current Lessee, Double B Dairy, LLC with respect to Cassia County Planning and Zoning Resolution No. 2007-06-1, to amend condition #17 of the permit to extend the time to achieve substantial construction or begin operation of the permitted dairy CAFO.

This amendment is to Condition #17, which shall now read as follows:

"17. That should Permittees fail to achieve substantial construction and/or operation of the proposed use within three(3) years of the date of signing of this Amending Resolution, then such permit becomes void and of no effect. Thereafter, a new permit, under then-existing regulations must be obtained for any such development can occur. Should this permit become invalid for any reason, the fact that such permit ever existed shall not and will not have any precedential effect in later applications seeking CAFO permitting."

All other conditions, as set forth in Cassia County Planning and Zoning Resolution No. 2007-06-1 shall remain in full force and effect.

NOTICE OF APPEAL RIGHT

Pursuant to provision of Cassia County Code Zoning Regulation, Title 9, Chapter 5, Section 9-5-5 J, any person, whose substantial rights are affected by this decision, is hereby notified that they have a right to file an appeal of this decision to the Board of County Commissioners for Cassia County, Idaho within twenty-eight (28) days after the date of this written decision, by filing with the County Clerk a notice of appeal specifying the grounds therefor and paying the appropriate fee.

Notice to Applicant - Right to Request Regulatory Taking Analysis
Idaho Code Section 67-8003 (2) provides that:

Upon the written request of an owner of real property that is the subject of such action, such request being filed with the clerk or the agency or entity undertaking the regulatory or administrative action not more than twenty-eight (28) days after the final decision concerning the matter at issue, a state agency or local governmental entity shall prepare a written taking analysis concerning the action. Any regulatory taking analysis prepared hereto shall comply with the process set forth in this chapter, including use of the checklist developed by the attorney general pursuant to subsection (1) of this section and shall be provided to the real property owner no longer than forty-two (42) days after the date of filing the request with the clerk or secretary of the agency whose action is questioned. A regulatory taking analysis prepared pursuant to this section shall be considered public information.

A request for a regulatory taking analysis in this matter, if requested, shall be filed with the Administrative Assistant of the Planning and Zoning Commission, in Courthouse Room # 4, Basement, 1459 Overland Avenue, Burley, RESOLUTION NO. 2012-006 / Golden Valley Dairies 3 & 4 Amendment 6/12

Cassia County, Idaho.

DATED this 19 day of July, 2012.

Approved this date by the following vote:

Bruce Beck	Aye ☒	Nay ☐	Excused ☐
Dennis L. James	Aye ☐	Nay ☐	Excused ☒
Burke Garner	Aye ☒	Nay ☐	Excused ☐
Daryl Whitehead	Aye ☒	Nay ☐	Excused ☐
Nolan Peterson	Aye ☐	Nay ☐	Excused ☒
Robert Brice	Aye ☐	Nay ☐	Excused ☒
Kent Durfee	Aye ☒	Nay ☐	Excused ☐

PLANNING AND ZONING COMMISSION

Bruce Beck
Bruce Beck, Chairman

ATTEST:

Timbri M. Hurst
Timbri M. Hurst
Administrative Assistant
to Planning & Zoning

NOTICE OF MAILING

I hereby certify that on the 19 day of July, 2012, I served a true and correct copy of the foregoing Resolution No. 2012-006, upon the following named parties at the indicated addresses:

Mr. Robert E. Williams
Williams, Meservy & Lothspeich, LLP
Attorneys at Law
P.O. Box 168
Jerome, Idaho 83338-0168

By depositing a copy thereof in the United States mail, first class postage prepaid at the Burley, Idaho Post Office.

Cassia County Administrator
Kerry D. McMurray

By: Timbri M. Hurst
Timbri M. Hurst,
Administrative Assistant