

RECEIVED ^{DE✓}

DEC 03 2008

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESDEPARTMENT OF
WATER RESOURCES**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.

1. Water Right No(s). 4511185 & 45-315 _____
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
D. L. Evans Bank
P.O. Box 87
Twin Falls, ID 83303
4. Name of Water Right Owner/Claimant(s) Kent Jay Cooper Estate
5. Expiration Date of Notification Period September 5, 2018
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) (and title if applicable) M. Jones
Loan Processor

For Office Use Only

Received by	_____	Date	_____	Fee	<u>50-</u>
Received by	<u>SR9</u>	Date	<u>12-3-2008</u>	Receipt No.	<u>6087285</u>
Processed by	_____	AJ	Date	WR	_____

SUPPORT DATA

45-315
IN FILE # _____

RECORDATION REQUESTED BY:

D. L. Evans Bank
Albion Branch
P.O. Box 517
Corner of Market & Main
Albion, ID 83311

CASSIA COUNTY

RECORDED FOR:
LAND TITLE AND ESCROW
3:36:29 pm 09-11-2008
2008-005161

NO. PAGES: 5 FEE: \$17.00
LARRY A. NICKELSEN
COUNTY CLERK
DEPUTY: VIKI

~~**CASSIA COUNTY**
RECORDED FOR:
LAND TITLE AND ESCROW
1:19:47 pm 09-08-2008
2008-005066
NO. PAGES: 5 FEE: \$17.00
LARRY A. NICKELSEN
COUNTY CLERK
DEPUTY: VIKI~~

WHEN RECORDED MAIL TO:

D. L. Evans Bank
Albion Branch
P.O. Box 517
Corner of Market & Main
Albion, ID 83311

SEND TAX NOTICES TO:

Kent Jay Cooper Estate
990 East 900 South
Albion, ID 83311

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

* Thomas DiGrazia, as General
Personal Representative For
The Estate

MODIFICATION OF MORTGAGE

THIS MODIFICATION OF MORTGAGE dated September 5, 2008, is made and executed between ~~the heirs and devisees~~ of Kent Cooper, also known as Kent J. Cooper, also known as Kent Jay Cooper, deceased (referred to below as "Grantor") and D. L. Evans Bank, whose address is P.O. Box 517, Corner of Market & Main, Albion, ID 83311 (referred to below as "Lender").

MORTGAGE. Lender and Grantor have entered into a Mortgage dated April 22, 2003 (the "Mortgage") which has been recorded in Cassia County, State of Idaho, as follows:

recorded April 24, 2003 as Instrument No. 288289 and extension dated May 28, 2008 recorded May 28, 2008 as Instrument No. 2008-003249 and extension dated August 26, 2008, recorded September 2, 2008 as Instrument No. 2008-004969.

REAL PROPERTY DESCRIPTION. The Mortgage covers the following described real property located in Cassia County, State of Idaho:

See Exhibit "A"

(Amend Water Right verbiage to read as follows:

TOGETHER WITH THE WATER RIGHTS REPRESENTED BY IDAHO STATE DEPARTMENT OF WATER RESOURCES WATER RIGHT NO. 45-11185 WITH A CLAIMED PRIORITY OF DECEMBER 31, 1942 TO 0.04 CFS OF GROUND WATER AND WATER RIGHT NO. 45-315 WITH A CLAIMED PRIORITY OF APRIL 1, 1880 TO 2.73 CFS OF WATERS OF MARSH CREEK A TRIBUTARY OF SNAKE RIVER, TOGETHER WITH ANY AND ALL OTHER WATER RIGHTS AND DITCH RIGHTS APPURTENANT TO THE ABOVE DESCRIBED PREMISES, which is attached to this Modification and made a part of this Modification as if fully set forth herein.

The Real Property or its address is commonly known as 992 East 900 South, Albion, ID 83311.

MODIFICATION. Lender and Grantor hereby modify the Mortgage as follows:

Promissory Note # 1212122568 is being replaced with new Note # 1212124302 dated September 05, 2008 in the original principal balance of ***Eighty One Thousand Six Hundred Twenty Three Dollars and 91/100**(\$81,623.91) bearing a fixed interest rate of 7.25% and due September 05, 2018.

CONTINUING VALIDITY. Except as expressly modified above, the terms of the original Mortgage shall remain unchanged and in full force and effect and are legally valid, binding, and enforceable in accordance with their respective terms. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Mortgage as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Mortgage (the "Note"). It is the intention of Lender to retain as liable all parties to the Mortgage and all parties, makers and endorsers to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Mortgage does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF MORTGAGE AND GRANTOR AGREES TO ITS TERMS. THIS MODIFICATION OF MORTGAGE IS DATED SEPTEMBER 5, 2008.

GRANTOR:

KENT JAY COOPER ESTATE

By:

Thomas DiGrazia, Personal Representative of Kent Jay Cooper Estate

LENDER:

D. L. EVANS BANK

#372331

ASSOCIATION ACKNOWLEDGMENT

STATE OF IDAHO)
) SSCOUNTY OF CASSIA

)

On this 5th day of September, in the year 20 08, before me Sue Ellen Keller, a notary public in and for the State of Idaho, personally appeared Thomas DiGrazia, Personal Representative of Kent Jay Cooper Estate, known or identified to me (or proved to me on the oath of Sue Ellen Keller), to be of Kent Jay Cooper Estate, and the officer or designated agent who subscribed said association name to the foregoing instrument, and acknowledged to me that he or she executed the same in said association name.

Sue Ellen Keller
Notary Public for Idaho

SUE ELLEN KELLER
NOTARY PUBLIC
STATE OF IDAHO

My commission expires 4-9-11

LENDER ACKNOWLEDGMENT

STATE OF IDAHO)
) SSCOUNTY OF CASSIA

)

On this 5th day of September, in the year 20 08, before me Sue Ellen Keller, a notary public in and for the State of Idaho, personally appeared Dell M. Mitchell, known or identified to me (or proved to me on the oath of Sue Ellen Keller), to be VP, B. Manager authorized agent for D. L. Evans Bank that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of D. L. Evans Bank, duly authorized by the D. L. Evans Bank through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute said instrument and in fact executed this said instrument on behalf of D. L. Evans Bank.

Sue Ellen Keller
Notary Public for Idaho

SUE ELLEN KELLER
NOTARY PUBLIC
STATE OF IDAHO

My commission expires 4-9-11

EXHIBIT "A"

PARCEL NO. 1:

TOWNSHIP 12 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: E½SW¼ and W½SE¼ EXCEPTING THEREFROM the following described tracts:

Tract No. 1:

Beginning at the Southeast corner of the SW¼SE¼; thence North 1°17' East for 359.1 feet to the True Point of Beginning;
Thence North 85°17' West for 311.1 feet to a point on the centerline of Marsh Creek;
Thence North 14°58' West along the centerline of said Marsh Creek for 336.34 feet to a point;
Thence South 86°04' East for 405.13 feet to a point;
Thence South 1°17' West for 322.94 feet to the True Point of Beginning.

Tract No. 2:

Beginning at the Southeast corner of the SW¼SE¼ of said Section 1; thence West along the South section line of said Section 1 for 311.73 feet to a point on the centerline of Marsh Creek;
Thence North 1°27' East along the centerline of said Marsh Creek for 384.72 feet to a point;
Thence South 85°17' East for 311.1 feet to a point;
Thence South 1°17' West for 359.1 feet to the True Point of Beginning.

Tract No. 3:

Beginning at the Southeast corner of the SW¼SE¼ of said Section 1, said corner marked by a ½ inch rebar; thence South 90°00'00" West (Basis of Bearing) along section line for 311.73 feet to a ½ inch rebar, which shall be the Point of Beginning;
Thence South 90°00'00" West along said section line for 308.42 feet to a ½ inch rebar;
Thence North 1°16'52" East for 705.58 feet to a ½ inch rebar;
Thence North 89°59'46" East for 225.31 feet to a ½ inch rebar;
Thence South 13°33'03" East (South 14°58' East Rec.) for 329.02 feet (336.34 feet Rec.) to a ½ inch rebar;
Thence South 1°27'00" West for 385.68 feet (384.72 feet Rec.) to the Point of Beginning.

Tract No. 4:

Beginning at the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 1, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;

Thence North 00°06'47" East along the West line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 836.36 feet to a ½ inch rebar;

Thence North 89°13'24" East for a distance of 878.10 feet to a ½ inch rebar;

Thence South 14°07'39" West for a distance of 627.22 feet to a ½ inch rebar;

Thence South 00°06'47" West for a distance of 230.16 feet to a ½ inch rebar on the South line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Thence South 89°13'24" West along said line for a distance of 726.19 feet to the Point of Beginning.

Tract No. 5:

Beginning at the South quarter section corner of said Section 1, said corner marked by a 5/8 inch rebar; thence South 90°00'00" West along section line for 147.67 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence South 90°00'00" West along section line for 229.73 feet to a ½ inch rebar;

Thence North 7°05'00" East for 197.30 feet to a ½ inch rebar;

Thence North 90°00'00" East for 215.21 feet to a ½ inch rebar;

Thence South 2°52'00" West for 196.04 feet to the Point of Beginning.

Tract No. 6:

Beginning at the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 1, said corner marked by a 5/8 inch rebar; Thence North 00°06'47" East along the West line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 836.36 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence North 00°06'47" East continuing along said line for a distance of 503.85 feet to the Northwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ marked by a 5/8 inch rebar;

Thence North 00°06'47" East along the West line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 268.83 feet to a ½ inch rebar;

Thence North 89°13'24" East for a distance of 1254.11 feet to a ½ inch rebar;

Thence South 18°41'59" West for a distance of 497.09 feet to a ½ inch rebar;

Thence South 46°27'01" West for a distance of 225.08 feet to a ½ inch rebar;

Thence South 11°53'31" West for a distance of 1011.98 feet to a ½ inch rebar on the South line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said point being 726.19 feet North 89°13'24" East from the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Thence North 00°06'47" East for a distance of 230.16 feet to a ½ inch rebar;

Thence North 14°07'39" East for a distance of 627.22 feet to a ½ inch rebar;

Thence South 89°13'24" West for a distance of 878.10 feet to the Point of Beginning.

Tract No. 7:

Beginning at the S $\frac{1}{4}$ section corner of said Section 1, said corner marked by a 5/8 inch rebar with a 3 inch cap on top; thence North 89°13'24" East along the South line of Section 1 for a distance of 564.52 feet to the Point of Beginning;

Thence North 00°30'43" East for a distance of 705.62 feet;

Thence North 89°14'28" East for a distance of 123.47 feet to a ½ inch rebar;

Thence South 00°30'43" West (South 0°16'52" West, rec.) for a distance of 705.58 feet to the South line of Section 1;

Thence South 89°13'24" West along the South line of Section 1 for a distance of 123.47 feet to the Point of Beginning.

Tract No. 8:

Beginning at the Northwest corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 1; Thence South 00°06'47" West for 967.18 feet to the True Point of Beginning;

Thence South 00°06'47" West for 104.20 feet to a ½ inch rebar;

Thence North 89°13'24" East for 1254.11 feet to a ½ inch rebar;

Thence North 00°06'47" East for 104.20 feet;

Thence South 89°13'24" West for 1254.11 feet to the Point of Beginning.

PARCEL NO. 2:

TOWNSHIP 12 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: Part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, more particularly described as follows:

Beginning at the South quarter section corner of said Section 1, said corner marked by a 5/8 inch rebar; thence South 90°00'00" West along section line for 147.67 feet to a ½ inch rebar which shall be the Point of Beginning;

Thence South 90°00'00" West along section line for 229.73 feet to a ½ inch rebar;

Thence North 7°05'00" East for 197.30 feet to a ½ inch rebar;

Thence North 90°00'00" East for 215.21 feet to a ½ inch rebar;

Thence South 2°52'00" West for 196.04 feet to the Point of Beginning.

EXTENSION AGREEMENT

CREDIT PROGRAMS

Name of Borrower(s) Kent Jay Cooper EstateDate: 5/28/2008Borrower Address 990 East 900 South, Albion, Idaho 83311Branch AlbionLoan Officer D. Mitchell/700

In this agreement, the words I, me, mine, and my mean each and all of those who signed it as Borrower's). The words you, your, and yours mean D. L. Evans Bank

ORIGINAL NOTE

I am the obligator on the Promissory note numbered 1212122568 which was executed by me in favor of you and dated 04/22/2003. The present balance due on said note as of the date of this Agreement is \$ 82,594.69, principal and \$ 115.97, accrued interest, for a total of \$ 82,710.66. It is agreed that except as modified herein, the original loan documents evidencing and securing my obligation including any guaranties, to you shall remain unchanged and shall be in full force and effect except as otherwise provided in Agreement. In the event that you require a new note to be executed, said note shall not be evidence of a new obligation but, rather, I understand it shall be deemed an extension note only, which extends the original obligation as it existed on the date of this Agreement.

SECURITY

I agree to provide you, if applicable, and if requested by you, title policy endorsements, continuation statements, and/or any other documents necessary to insure and protect your priority with respect to your security interest in the collateral given as security for the Promissory Note. Said Promissory Note is secured by the following described collateral indicated by X

☐ Deed of Trust to the property described on attached Exhibit A and recorded on the date _____ as Instrument Number _____; Book Number _____ record of _____ County, Idaho

☐ Security Agreement to the property described on attached Exhibit A which Security Agreement was perfected by (describe) _____

☒ Other: Real Estate Mortgage

☐ Said Promissory Note is unsecured

EXTENSION FEES AND TERMS

I hereby request and you hereby agree to the following, as indicated by X, provided I comply with the terms of this Agreement and the terms of the original loan documents, except as modified herein.

☒ The maturity date is extended to 7/25/2008

☐ _____ payments beginning _____ (date) are extended until the maturity date of the promissory note. On _____ (date) the regular payments of _____ (amount) shall commence again. This action could result in a balloon payment at maturity

☐ Other;

As consideration for the above action, I agree to the following as indicated by X

☐ An increase in the rate, as of the date of this agreement, on the Promissory note from _____ to _____

☒ To pay an extension fee of \$ 25.00, the receipt you hereby acknowledge ✓

☒ To pay accrued interest of \$ 115.97, the receipt you hereby acknowledge ✓

☒ Other: Extending maturity date to 7/25.08 ✓

☐ The original loan documents shall also be modified as follows (describe):

CASSIA COUNTY

RECORDED FOR:

D L EVANS

2:12:29 pm 05-28-2008

2008-003249

NO. PAGES: 1

FEE: \$3.00

LARRY A. NICKELSEN

COUNTY CLERK

DEPUTY: VIKI

copy received

I acknowledge receipt of a copy of this agreement. I have read and understand all the provisions of this agreement, including any attached exhibits

Borrower Name Kent Jay Cooper Estate

Partnership

By: [Signature]Date 5/28/2008

Title _____

Name: _____

By: _____

Date _____

Title _____

Name: _____

288289

RECORDED AT THE REQUEST OF
LAND TITLE & ESCROW

03 APR 24 PM 2 08

CASSIA COUNTY, IDAHO
LARRY A. NICKELSEN
RECORDER
FEE \$17.00 DEPUTY *He*

288289

Space Above This Line For Recording Data

MORTGAGE

DATE AND PARTIES. The date of this Mortgage (Security Instrument) is April 22, 2003. The parties and their addresses are:

MORTGAGOR:

THOMAS DIGRAZIA

As GENERAL PERSONAL REPRESENTATIVE

For the Estate of **KENT COOPER, ALSO KNOWN AS KENT J. COOPER, ALSO KNOWN AS KENT JAY**

COOPER, DECEASED

990 EAST 900 SOUTH

ALBION, Idaho 83311

LENDER:

D. L. EVANS BANK

Organized and existing under the laws of Idaho

P. O. Box 517

Corner of Market & Main

Albion, Idaho 83311

82-0117415

1. CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debts and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender, the following described property:

REFER TO EXHIBIT "A" WHICH IS ATTACHED HERETO AND MADE A PART HEREOF.

TOGETHER WITH ALL WATER AND WATER RIGHTS, DITCHES AND DITCH RIGHTS USED THEREON OR APPURTENANT THERETO INCLUDING BUT NOT LIMITED TO WATER UNDER IDAHO DEPARTMENT OF WATER RESOURCES WATER RIGHT NUMBERS 45-294A; 45-315; AND 45-11185.

TOGETHER WITH ALL IRRIGATION EQUIPMENT OF EVERY KIND AND CHARACTER AND ADDITIONS THERETO AND REPLACEMENTS NOW OR HEREAFTER OWNED BY THE BORROWERS AND USED IN IRRIGATION OF THE ABOVE PREMISES.

The property is located in CASSIA County at SEE LEGAL DESCRIPTION, ALBION, Idaho 83311.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described (all referred to as Property). This Security Instrument will remain in effect until the Secured Debts and

B. All Debts. All present and future debts from KENT JAY COOPER ESTATE to Lender, even if this Security Instrument is not specifically referenced, or if the future debt is unrelated to or of a different type than this debt. If more than one person signs this Security Instrument, each agrees that it will secure debts incurred either individually or with others who may not sign this Security Instrument. Nothing in this Security Instrument constitutes a commitment to make additional or future loans or advances. Any such commitment must be in writing. In the event that Lender fails to provide any required notice of the right of rescission, Lender waives any subsequent security interest in the Mortgagor's principal dwelling that is created by this Security Instrument. This Security Instrument will not secure any debt for which a non-possessory, non-purchase money security interest is created in "household goods" in connection with a "consumer loan," as those terms are defined by federal law governing unfair and deceptive credit practices. This Security Instrument will not secure any debt for which a security interest is created in "margin stock" and Lender does not obtain a "statement of purpose," as defined and required by federal law governing securities.

C. Sums Advanced. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument when the evidence of indebtedness specifically states that it is secured by this Security Instrument.

4. PAYMENTS. Mortgagor agrees that all payments under the Secured Debts will be paid when due and in accordance with the terms of the Secured Debts and this Security Instrument.

5. WARRANTY OF TITLE. Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

6. PRIOR SECURITY INTERESTS. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.

C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

7. CLAIMS AGAINST TITLE. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

8. DUE ON SALE. Lender may, at its option, declare the entire balance of the Secured Debts to be immediately due and payable upon the creation of, or contract for the creation of, a transfer or sale of the Property. This right is subject to the restrictions imposed by federal law governing the preemption of state due-on-sale laws, as applicable.

9. WARRANTIES AND REPRESENTATIONS. Mortgagor makes to Lender the following warranties and representations which will continue as long as this Security Instrument is in effect:

A. Power. Mortgagor is duly organized, and validly existing and in good standing in all jurisdictions in which Mortgagor operates. Mortgagor has the power and authority to enter into this transaction and to carry on Mortgagor's business or activity as it is now being conducted and, as applicable, is qualified to do so in each jurisdiction in which Mortgagor operates.

B. Authority. The execution, delivery and performance of this Security Instrument and the obligation evidenced by this Security Instrument are within Mortgagor's powers, have been duly authorized, have received all necessary governmental approval, will not violate any provision of law, or order of court or governmental agency, and will not violate any agreement to which Mortgagor is a party or to which Mortgagor is or any of Mortgagor's property is subject.

10. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal

Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

12. ASSIGNMENT OF LEASES AND RENTS. Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains, conveys and mortgages to Lender all the right, title and interest in the following (all referred to as Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including any extensions, renewals, modifications or replacements (all referred to as Leases).

B. Rents, issues and profits (all referred to as Rents), including but not limited to security deposits, minimum rent, percentage rent, additional rent, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general intangibles, and all rights and claims which Assignor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property.

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment. As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so required) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

13. DEFAULT. Mortgagor will be in default if any of the following occur:

A. **Payments.** Mortgagor fails or Guarantor fails to make a payment in full when due.

B. **Insolvency.** Mortgagor makes an assignment for the benefit of creditors or becomes insolvent, either because Mortgagor's liabilities exceed Mortgagor's assets or Mortgagor is unable to pay Mortgagor's debts as they become due.

C. **Failure to Perform.** Mortgagor fails to perform any condition or to keep any promise or covenant of this Security Instrument.

D. **Other Documents.** A default occurs under the terms of any other transaction document.

E. **Other Agreements.** Mortgagor is in default on any other debt or agreement Mortgagor has with Lender.

L. Erosion. Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained by federal law.

M. Insecurity. Lender reasonably believes that Lender is insecure.

14. REMEDIES. Lender may use any and all remedies Lender has under state or federal law or in any instrument evidencing or pertaining to the Secured Debts. Any amounts advanced on Mortgagor's behalf will be immediately due and may be added to the balance owing under the Secured Debts. Lender may make a claim for any and all insurance benefits or refunds that may be available on Mortgagor's default.

Subject to any right to cure, required time schedules or any other notice rights Mortgagor may have under federal and state law, Lender may make all or any part of the amount owing by the terms of the Secured Debts immediately due and foreclose this Security Instrument in a manner provided by law upon the occurrence of a default or anytime thereafter.

All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debts after the balance is due or is accelerated or after foreclosure proceedings are filed will not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

15. REDEMPTION. The period of redemption after sale on foreclosure will be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.

16. COLLECTION EXPENSES AND ATTORNEYS' FEES. On or after Default, to the extent permitted by law, Mortgagor agrees to pay all expenses of collection, enforcement or protection of Lender's rights and remedies under this Security Instrument. Mortgagor agrees to pay expenses for Lender to inspect and preserve the Property and for any recordation costs of releasing the Property from this Security Instrument. Expenses include, but are not limited to, attorneys' fees, court costs and other legal expenses. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of the Secured Debts. To the extent permitted by the United States Bankruptcy Code, Mortgagor agrees to pay the reasonable attorneys' fees Lender incurs to collect the Secured Debts as awarded by any court exercising jurisdiction under the Bankruptcy Code.

17. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substance," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to

of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property secured by this Security Instrument without prejudice to any of Lender's rights under this Security Instrument.

L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section will survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

18. CONDEMNATION. Mortgagor will give Lender prompt notice of any pending or threatened action by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds will be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

19. INSURANCE. Mortgagor agrees to keep the Property insured against the risks reasonably associated with the Property. Mortgagor will maintain this insurance in the amounts Lender requires. This insurance will last until the Property is released from this Security Instrument. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debts. Mortgagor may choose the insurance company, subject to Lender's approval, which will not be unreasonably withheld.

All insurance policies and renewals will include a standard "mortgage clause" and, where applicable, "loss payee clause." If required by Lender, Mortgagor agrees to maintain comprehensive general liability insurance and rental loss or business interruption insurance in amounts and under policies acceptable to Lender. The comprehensive general liability insurance must name Lender as an additional insured. The rental loss or business interruption insurance must be in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing.)

Mortgagor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to restoration or repair of the Property or to the Secured Debts, at Lender's option. If Lender acquires the Property in damaged condition, Mortgagor's rights to any insurance policies and proceeds will pass to Lender to the extent of the Secured Debts.

Mortgagor will immediately notify Lender of cancellation or termination of insurance. If Mortgagor fails to keep the Property insured Lender may obtain insurance to protect Lender's interest in the Property. This insurance may include coverages not originally required of Mortgagor, may be written by a company other than one Mortgagor would choose, and may be written at a higher rate than Mortgagor could obtain if Mortgagor purchased the insurance.

20. ESCROW FOR TAXES AND INSURANCE. Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

21. CO-SIGNERS. If Mortgagor signs this Security Instrument but does not sign the Secured Debts, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debts and Mortgagor does not agree to be personally liable on the Secured Debts. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws.

22. WAIVERS. Except to the extent prohibited by law, Mortgagor waives all appraisal and homestead exemption rights relating to the Property.

the agreement. If any provision of this Security Instrument is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

27. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Security Instrument.

28. NOTICE, FINANCIAL REPORTS AND ADDITIONAL DOCUMENTS. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one party will be deemed to be notice to all parties. Mortgagor will inform Lender in writing of any change in Mortgagor's name, address or other application information. Mortgagor will provide Lender any financial statements or information Lender requests. All financial statements and information Mortgagor gives Lender will be correct and complete. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and to confirm Lender's lien status on any Property. Time is of the essence.

SIGNATURES. By signing, Mortgagor agrees to the terms and covenants contained in this Security Instrument. Mortgagor also acknowledges receipt of a copy of this Security Instrument.

MORTGAGOR:

KENT COOPER, ALSO KNOWN AS KENT J. COOPER, ALSO KNOWN AS KENT JAY COOPER, DECEASED

By Thomas J. Digrazia
THOMAS DIGRAZIA, GENERAL PERSONAL REPRESENTATIVE

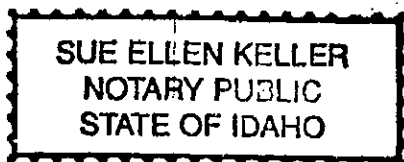
ACKNOWLEDGMENT.

(Business or Entity)

State OF Idaho, County OF Cassia ss:
On this 22nd day of April, 2003, before me,
a Notary Public, personally appeared THOMAS DIGRAZIA, known or
identified to me (or proved to me on the oath of _____) to be the GENERAL
PERSONAL REPRESENTATIVE, of the Estate that executed the instrument or the person who executed the
instrument on behalf of said Estate, and acknowledged to me that such Estate executed the same.

My commission expires: 4-9-05

Sue Ellen Keller
(Notary Public) Albion Idaho
4-9-05



PARCEL NO. 1:

TOWNSHIP 12 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 1: E $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$ EXCEPTING THEREFROM the following described tracts:

Tract No. 1:

Beginning at the Southeast corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$; thence North 1°17' East for 359.1 feet to the True Point of Beginning;
Thence North 85°17' West for 311.1 feet to a point on the centerline of Marsh Creek;
Thence North 14°58' West along the centerline of said Marsh Creek for 336.34 feet to a point;
Thence South 86°04' East for 405.13 feet to a point;
Thence South 1°17' West for 322.94 feet to the True Point of Beginning.

Tract No. 2:

Beginning at the Southeast corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 1; thence West along the South section line of said Section 1 for 311.73 feet to a point on the centerline of Marsh Creek;
Thence North 1°27' East along the centerline of said Marsh Creek for 384.72 feet to a point;
Thence South 85°17' East for 311.1 feet to a point;
Thence South 1°17' West for 359.1 feet to the True Point of Beginning.

Tract No. 3:

Beginning at the Southeast corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 1, said corner marked by a $\frac{1}{2}$ inch rebar; thence South 90°00'00" West (Basis of Bearing) along section line for 311.73 feet to a $\frac{1}{2}$ inch rebar, which shall be the Point of Beginning;
Thence South 90°00'00" West along said section line for 308.42 feet to a $\frac{1}{2}$ inch rebar;
Thence North 1°16'52" East for 705.58 feet to a $\frac{1}{2}$ inch rebar;
Thence North 89°59'46" East for 225.31 feet to a $\frac{1}{2}$ inch rebar;
Thence South 13°33'03" East (South 14°58' East Rec.) for 329.02 feet (336.34 feet Rec.) to a $\frac{1}{2}$ inch rebar;
Thence South 1°27'00" West for 385.68 feet (384.72 feet Rec.) to the Point of Beginning.

-Continued-

Tract No. 4:

Beginning at the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 1, said corner marked by a 5/8 inch rebar which shall be the Point of Beginning;

Thence North 00°06'47" East along the West line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 836.36 feet to a 1/2 inch rebar;

Thence North 89°13'24" East for a distance of 878.10 feet to a 1/2 inch rebar;

Thence South 14°07'39" West for a distance of 627.22 feet to a 1/2 inch rebar;

Thence South 00°06'47" West for a distance of 230.16 feet to a 1/2 inch rebar on the South line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Thence South 89°13'24" West along said line for a distance of 726.19 feet to the Point of Beginning.

Tract No. 5:

Beginning at the South quarter section corner of said Section 1, said corner marked by a 5/8 inch rebar; thence South 90°00'00" West along section line for 147.67 feet to a 1/2 inch rebar which shall be the Point of Beginning;

Thence South 90°00'00" West along section line for 229.73 feet to a 1/2 inch rebar;

Thence North 7°05'00" East for 197.30 feet to a 1/2 inch rebar;

Thence North 90°00'00" East for 215.21 feet to a 1/2 inch rebar;

Thence South 2°52'00" West for 196.04 feet to the Point of Beginning.

Tract No. 6:

Beginning at the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 1, said corner marked by a 5/8 inch rebar; Thence North 00°06'47" East along the West line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 836.36 feet to a 1/2 inch rebar which shall be the Point of Beginning;

Thence North 00°06'47" East continuing along said line for a distance of 503.85 feet to the Northwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ marked by a 5/8 inch rebar;

Thence North 00°06'47" East along the West line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 268.83 feet to a 1/2 inch rebar;

Thence North 89°13'24" East for a distance of 1254.11 feet to a 1/2 inch rebar;

Thence South 18°41'59" West for a distance of 497.09 feet to a 1/2 inch rebar;

Thence South 46°27'01" West for a distance of 225.08 feet to a 1/2 inch rebar;

Thence South 11°53'31" West for a distance of 1011.98 feet to a 1/2 inch rebar on the South line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said point being 726.19 feet North 89°13'24" East from the Southwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Thence North 00°06'47" East for a distance of 230.16 feet to a 1/2 inch rebar;

Thence North 14°07'39" East for a distance of 627.22 feet to a 1/2 inch rebar;

Thence South 89°13'24" West for a distance of 878.10 feet to the Point of Beginning.