

OCT 25 2004

DEPARTMENT OF
WATER RESOURCES

David L. Smith
Jeffrey R. Christenson
David P. Claiborne
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Daniel V. Steenson
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William F. Ringert, of Counsel
Samuel Kaufman (1921-1986)

October 25, 2004

Jeff Peppersack
Idaho Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

Re: Water Right No. 63-31194

Dear Mr. Peppersack,

I am writing on behalf of my client, L. Darwin McKay. This letter supplements the September 2, 2004 letter sent to you regarding water right 63-31194. IDWR's records were erroneously changed to show Sundance Investment LTD Partnership ("Sundance") as the current owner as a result of the Change In Water Right Ownership form that was filed without Mr. McKay's knowledge or consent. Sundance has not responded to Mr. McKay's request of Sundance to withdraw or rescind the erroneous Change In Water Right Ownership application. Therefore, Mr. McKay requests IDWR to correct its records to show Mr. McKay as the current owner of the water right.

Mr. McKay appropriated, perfected and owns water right no. 63-31194. The original number for this water right was 63-10666. The Application For Permit, July 22, 1988, and the Application For Amendment Of A Permit, November 22, 1989, identify Mr. McKay as the applicant. Both applications state that the land is owned by a person other than the applicant. IDWR issued a permit to Mr. McKay for this water right to irrigate the land he leased originally from HCM Investments. This water right was licensed in Mr. McKay's name while he leased and irrigated the land from TCM Joint Venture (TCM). The fact that the land is owned by an investment group to which Mr. McKay held a five percent interest has no bearing on ownership of the water right.

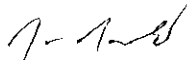
Sundance purchased the land from TCM on January 9, 2003. TCM purchased the land in November, 1978. The TCM Joint Venture Agreement, enclosed, identifies Jack Miller as the general manager and party with authority to act on behalf of TCM. The March 23, 2000 written statement by Jack Miller, general manager of TCM, confirms that TCM has no interest in the water right and that Mr. McKay owns the water right. TCM never owned or had any interest in the water right. The water right did not transfer to Sundance when Sundance purchased the land from TCM.

Jeff Peppersack
October 25, 2004
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IDWR's records correctly listed Mr. McKay as the owner of this water right until Sundance filed the Change In Water Right Ownership form. Sundance had notice that Mr. McKay, and not TCM, was the owner of the right when the Change form was completed. The documentation in the IDWR file confirms that Mr. McKay appropriated, perfected and owns this water right. TCM cannot transfer or sale a water right it does not own.

Your prompt correction of this error is requested so that Mr. McKay may file application to transfer the water right, which he intends to do soon. Please feel free to call me if you have any questions. Thank you.

Yours very truly,

A handwritten signature in black ink, appearing to read "Jon Gould", written in a cursive style.

Jon Gould

Enclosure

cc: L. Darwin McKay

RECEIVED

OCT 25 2004

DEPARTMENT OF
WATER RESOURCESTCM JOINT VENTURE AGREEMENT

THIS AGREEMENT Executed on the ____ day of November, 1978,
by and between JACK E. MILLER, CHRISTOPHER J. KEPUS,
ALFRED W. STURR, FRED DEL GADILLO, SR., FRED DEL GADILLO, JR.,
JOHN GROW, RICHARD LAVENDER, FRED NAKAJI, L. DARWIN MCKAY,
MICHAEL R. MILLER, and LOYAL A. MEHRHOFF, as a joint venture
agreement.

R E C I T A L S

WHEREAS, the parties are aware of the availability of
a certain real property located in the County of Ada, State
of Idaho, and more particularly described as follows:

East half of the Northwest Quarter of Section 21,
Township 3 North, Range 1 East, Boise Meridian,
Ada County, Idaho, as set forth in the official
records of Ada County, Idaho; and

WHEREAS, the property may be obtained at the price of
FOUR HUNDRED FORTY THOUSAND SIX HUNDRED FIFTEEN AND NO/100
DOLLARS (\$440,615.00); and

WHEREAS, the parties desire to form a joint venture, and
not a general partnership, to hold this real estate for
investment purposes,

NOW, THEREFORE, In consideration of the mutual benefits
to be derived, and the promises and covenants contained herein,
the parties associate themselves as joint venturers for the
purposes set forth above and agree as follows:

ARTICLE ONEFORMATION1.1 FORMATION OF PARTNERSHIP

The parties do hereby adopt the foregoing recitals, and

1-JOINT VENTURE AGREEMENT

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HOMERDALE, IDAHO 83406

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MONTELEONE, IDAHO 83414

do hereby form a Joint Venture under the laws of the State of Idaho.

1.2 NAME AND PRINCIPAL OFFICE

The name of the Joint Venture shall be TCM JOINT VENTURE and the principal office of the Joint Venture shall be at Route Number One (1), Ash Street, Kuna, Idaho, or at such other place or places as the joint venturers may from time to time designate.

1.3 TERM OF JOINT VENTURE

The Joint Venture shall be deemed to have commenced business as of the 1st day of July, 1978, and shall continue from such date until the 1st day of July, 2003 or until terminated as hereinafter provided.

1.4 JOINT VENTURERS DESIGNATED

The joint venturers of TCM Joint Venture and their respective interest shall be as follows:

JACK E. MILLER	10%
CHRISTOPHER J. KEPUS	10%
ALFRED W. STURR	10%
FRED DEL GADILLO, SR.	10%
FRED DEL GADILLO, JR.	5%
JOHN GROW	10%
RICHARD LAVENDER	10%
FRED NAKAJI	10%
L. DARWIN MCKAY	5%
MICHAEL R. MILLER	10%
LOYAL A. MEHRHOFF	10%

1.5 PURPOSES AND POWERS

The purpose of the Joint Venture, the businesses to be carried out and the objectives to be effected by it are:

(1) To buy, sell, convey, lease, let, mortgage, exchange or otherwise acquire or dispose of the houses, buildings and real property, hereditaments and appur-

2-JOINT VENTURE AGREEMENT

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1 tenances of all kinds set forth above and of any interest
2 and rights therein, or any personal property, to the same
3 extent as natural persons might or could do pursuant
4 to that certain Amended Escrow Agreement set forth as
5 EXHIBIT A and incorporated herein by this reference
6 as if set forth in full.

7 (2) To make, perform and carry out contracts of
8 every kind and description made for any lawful purpose,
9 without limit as to amount, with any person, firm,
10 association or corporation, either public or private,
11 or with any territory or government, or any agency
12 thereof as it may relate to the above-said real property.

13 (3) To have one or more offices to carry on all
14 or any part of its operation and business, and to do
15 all and everything necessary, suitable, convenient or
16 proper for the accomplishment of any of the purposes or
17 the attainment of any one or more of the objects herein
18 named, or which shall at any time appear conducive or
19 expedient for the protection or benefit of the Joint
20 Venture and the above-said real property, and which now
21 or hereafter may be authorized by law, and this to the
22 same extent and as fully as natural persons might or
23 could do, as principals, agents, contractors, trustees,
24 or otherwise, and either alone or in connection with
25 any person, firm, association, or corporation.

26 (4) To have and to exercise any and all powers
27 and privileges now or hereafter conferred by the laws
28 of the State of Idaho upon joint ventures as it may
29 relate to the above-said real property.

30 (5) To carry on any other activities necessary to,
31 in connection with or incidental to the above-said
32 real property.

3-JOINT VENTURE AGREEMENT

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HOMEDALE, IOWA 52858

1 The foregoing clauses are to be construed both as objects
2 and powers; it is hereby expressly provided that the enumera-
3 tion hereof of specific objects and powers shall not be held
4 to limit or restrict in any manner the general powers of the
5 Joint Venture; provided, however, that nothing contained herein
6 shall be deemed to authorize or permit the Joint Venture to
7 carry on any business or to exercise any power or to do any
8 act which is not related to the above-said real property. It
9 is the intention that the purposes and powers specified in
10 each of subparagraphs 1.5(1) to (5), inclusive, shall,
11 except as otherwise expressly provided, in no way be limited
12 or restricted by reference to, or inference from, the terms
13 of any subparagraph, clause or paragraph of this Joint Venture
14 Agreement.

15
16 ARTICLE TWO

17 RIGHTS, POWERS AND DUTIES OF JOINT VENTURERS

18
19 2.1 MANAGEMENT OF JOINT VENTURE BUSINESS

20 (a) Manager. For the calendar year 1978 and thereafter
21 JACK E. MILLER shall be designated as manager of the Joint
22 Venture with authority and duties as the joint venturers
23 shall from time to time prescribe, including, but not limited
24 to, the present ability to act as attorney in fact for all the
25 joint venturers and as an authorized joint venturer to enter
26 into and purchase the above-said real property on the terms
27 set forth in EXHIBIT A.

28 (b) Joint Matters. Only with the prior written consent
29 of a majority of the joint venturers shall the Joint Venture
30 execute any documents or agreements concerning, expend any
31 funds for, make any decisions upon or take any action towards,
32 whether or not a binding obligation is thereby created, regarding

4-JOINT VENTURE AGREEMENT

1 the following:

2 (1) Formal proposals or bids to any individual,
3 corporation, business, federal, state or local governmental
4 or quasi-governmental bodies or agencies.

5 (2) Sales and other disposition of the realty of the
6 Joint Venture or its material personalty except as pro-
7 vided for herein shall require a seventy percent (70%)
8 majority.

9 (3) The undertaking to obtain loan commitments
10 for any purpose.

11 (4) The creation of any mortgage of realty or of
12 any lien or other encumbrance on material personalty.

13 (5) The undertaking of guarantee, endorsements
14 or other contingent obligations.

15 (6) The undertaking of any indebtedness,
16 whether for debt incurred, monies borrowed or otherwise,
17 regardless of the purpose, in any amount.

18 (7) The commitment, contract, lease or other
19 obligation involving the expenditure of funds.

20 (8) The compromise or release of any debt due
21 the Joint Venture except upon full payment thereof.

22 (9) Grant a security interest in or sell a joint
23 venturer's share of the Joint Venture, or any part thereof,
24 or in its capital, assets or property or any part thereof,
25 or enter into any agreement as a result of which any
26 person shall become interested with it in the Joint Venture.

27 (10) Do any act detrimental to the best interests
28 of the Joint Venture, or which would impair the Joint
29 Venture in the conduct of the ordinary business of the
30 Joint Venture.

31
32
33 5-JOINT VENTURE AGREEMENT

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YAMADA, DONOVAN & YATES, CTD.
ATTORNEYS AT LAW

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BOISE, IDAHO 83701 MONTECALA, IDAHO 83403

1 2.2 SIGNATURE AUTHORIZATION

2 It is agreed that any documents, contracts, agreements,
3 notes, mortgages or other written agreements, the execution of
4 which has been authorized as provided in Paragraph 2.1 above, may
5 executed by the managing joint venturer(s). Any such document
6 authorized as provided in Paragraph 2.1 above and so executed
7 shall be valid and shall bind the Joint Venture.
8

9 2.3 SALARIES

10 None of the joint venturers, regardless of their various
11 classifications and responsibilities, shall receive any
12 salary from the Joint Venture unless authorized on a case by
13 case basis. All compensation to joint venturers shall be in
14 the form of a distribution of Joint Venture net profits, as
15 hereinafter set forth.
16

17 2.4 OTHER MATTERS.

18 (a) A person dealing with the Joint Venture may rely
19 upon this Joint Venture Agreement as setting forth the
20 authority of any joint venturer to take any action or make
21 any decision hereunder, or to bind the Joint Venture to any
22 agreement, arrangement or transaction.

23 (b) The joint venturers shall use their best efforts
24 to carry out the purposes, businesses and objectives of the
25 Joint Venture, and shall devote such time and effort as is
26 reasonably necessary to accomplish the purposes of the Joint
27 Venture. It is understood and agreed that in no event shall
28 any joint venturer be expected or required to devote full
29 time to the business of this Joint Venture.
30

31 ARTICLE THREE

32 CAPITAL

6-JOINT VENTURE AGREEMENT

FROM

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MOMADALE, IDAHO 83428

1 3.1 INITIAL CAPITAL OF THE JOINT VENTURE

2 The initial capital of EIGHTY-EIGHT THOUSAND AND NO/100
3 DOLLARS (\$88,000.00) of the Joint Venture has already been
4 contributed as agreed upon by the joint venturers and
5 according to the Joint Venture accounts as previously
6 established.

7
8 3.2 SUBSEQUENT CHANGES AND DETERMINATIONS OF CAPITAL

9 (a) The capital account of each joint venturer shall
10 consist of his original capital contribution, as required by
11 Paragraph 3.1, plus any additional contributions to the
12 Joint Venture made thereafter (other than those transfers,
13 if any, made by a joint venturer to the Joint Venture which
14 would be designated as loans) plus such a joint venturer's
15 share of net income, if any, as computed according to ARTICLE
16 FOUR, less such joint venturer's share of the Joint Venture's
17 net loss, if any, computed according to ARTICLE FOUR.

18 (b) The capital account of any joint venturer, including
19 any additional or substitute joint venturer, who shall
20 receive an interest in the Joint Venture or whose Joint
21 Venture interest shall be increased by means of transfer to
22 him of all or part of the Joint Venture interest of another
23 joint venturer including additional or substituted joint
24 venturers, shall be reflected as a decrease in the capital
25 account of the transferor.

26 (c) It is understood and agreed that pursuant to
27 EXHIBIT A certain payments shall be required to be made
28 by the Joint Venture. Further, each joint venturer
29 shall contribute his pro rate share of each payment
30 based upon his percentage of ownership as set forth
31 above. Further, each joint venturer shall contribute
32

1 his pro rata share at least forty-five (45) days prior to the
2 due date of each payment as set forth in EXHIBIT B. Further, in
3 the event any joint venturer shall not contribute his
4 pro rata share of each payment forty-five (45) days prior
5 to the due date of each payment as set forth in EXHIBIT B,
6 the remaining joint venturers may contribute the non-
7 contributing joint venturer's share and the contributing
8 joint venturers shall have a lien for said amount against
9 the non-contributing joint venturer. This, however, shall
10 not amount to an election of remedies and any other remedy
11 at law or in equity may be utilized.

12 ARTICLE FOUR

13 PROFITS, LOSSES AND DISTRIBUTIONS

15 4.1 DETERMINATION AND ALLOCATION OF PROFIT AND LOSS

16 Net income or loss of the Joint Venture shall be determined
17 by Joint Venture capital accounts in accordance with generally
18 accepted accounting principles as agreed upon by joint
19 venturers and applied on a consistent basis.
20 .

21 4.2 VALUATION DATE AND AUDIT

22 On December 31 of each year or at such other date as
23 specified by the joint venturers, a certified public accountant
24 selected by the Joint Venture shall audit the Joint Venture
25 interest of each joint venturer as of said date. Such audit
26 shall be performed in accordance with generally accepted
27 auditing standards. Any income or loss experienced by the
28 Joint Venture since the date of the preceding audit shall be
29 allocated to the capital account of each joint venturer in
30 the same proportion that each such capital account bears to
31 all capital accounts of the Joint Venture.
32

33 3-JOINT VENTURE AGREEMENT

1 Whenever the term "valuation date" is used in this Agreement,
2 such phrase shall mean December 31 of each year or such
3 other date when such last audit was performed.

4
5 **ARTICLE FIVE**

6 **WITHDRAWAL, ASSIGNMENTS AND ADMISSIONS**

7
8 **5.1 GENERAL**

9 A joint venturer shall not withdraw from the Joint
10 Venture, or sell or assign his Joint Venture interest (whether
11 voluntary or involuntary) except under the provisions of
12 this ARTICLE FIVE. No additional joint venturers shall be
13 admitted to the Joint Venture except as expressly provided
14 herein.

15
16 **5.2 AUTHORIZED TRANSFERS**

17 (a) With the prior written consent of all of the other
18 joint venturers, a joint venturer may sell his interest
19 under this Agreement, subject to the provisions of paragraphs
20 below.

21 (b) Any assignee, distributee, legatee, transferee or
22 other person taking an interest in the Joint Venture, pursuant
23 to the provisions of subparagraph (1) hereof, shall be
24 entitled to share in the profits, losses and management of
25 the Joint Venture to the extent of the interest transferred.

26 (c) It is expressly understood between the joint
27 venturers hereto that any joint venturer desiring to sell
28 his interest under this Agreement may sell only all of his
29 interest and not a portion thereof.

30
31 **5.3 RIGHT OF FIRST REFUSAL**

32 (a) Except as provided in Paragraph 5.2, no joint

9-JOINT VENTURE AGREEMENT

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HOMEDALE, IDAHO 83435

1 venturer may sell, assign or otherwise transfer all of his
2 interest in the Joint Venture (whether for consideration or
3 otherwise), nor shall any interest be pledged, hypothecated,
4 passed by operation of law or otherwise disposed of, directly
5 or indirectly, all stated without limitation, unless all of
6 the joint venturers have agreed thereto in writing, in which
7 case the provisions of the following subparagraph shall apply
8 to such transaction.

9 (b) Any joint venturer desiring to sell all of his interest
10 in the Joint Venture hereafter in this Paragraph 5.3 shall, after
11 obtaining written consent of all joint venturers, first by means
12 of an offer in writing offer the interest to the other joint
13 venturers hereafter in this Paragraph 5.3 at a price equal to the
14 amount of capital invested by the joint venturer into the Joint
15 Venture less any loss, if any, as computed in ARTICLE FOUR.

16 (c) The other joint venturers shall have, initially,
17 thirty (30) days after receipt of such written offer within
18 which to elect to purchase the offered interest, in the same
19 ratio as their then ownership bears to the total ownership
20 excluding the offered interest, such election to be evidenced
21 and exercised by written notices, effective when mailed.

22 (d) Should a joint venturer to whom a written offer
23 was made by the withdrawing joint venturer elect not to
24 purchase his proportionate share of such offered interest
25 then the other non-withdrawing joint venturers may, at
26 their option, purchase such proportionate interest in addition
27 to their aforementioned ratio of such withdrawing joint
28 venturer's interest.

29 (e) If the right of first refusal as hereinabove
30 stated is thus exercised by the other joint venturers, they
31 shall purchase the offered interest from the selling joint
32 venturer on the following terms and conditions: The total
10-JOINT VENTURE AGREEMENT

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1 purchase price shall be payable to the selling joint
2 venturer in cash within ninety (90) days of the exercise of
3 the written notice of acceptance.

4 (f) If the non-selling joint venturers fail to exercise
5 the right of first refusal as hereinabove stated, the selling
6 joint venturer may transfer his interest in the aforementioned
7 Joint Venture to any prospective purchaser subject to the
8 terms of subparagraph 5.4 below.

9
10 5.4 OBLIGATIONS AND RIGHTS OF TRANSFEREES

11 (a) Any person or other entity who acquires in any
12 manner whatsoever any Joint Venture interest, irrespective
13 of whether such person has accepted and assumed in writing
14 the terms and provisions of the Joint Venture Agreement, shall
15 be deemed by the acceptance of the benefit of the acquisition
16 thereof to have agreed to be subject and bound by all the
17 obligations of the Joint Venture Agreement with the same
18 force and effect as any predecessor in interest of such
19 person. Moreover, neither the Joint Venture nor any joint
20 venturer shall be bound by any sale, assignment, transfer,
21 pledge, distribution, device, or other means by which any
22 person or entity acquires said interest in the Joint
23 Venture, whether voluntary or by operation of law, (and any
24 such sale, assignment, transfer or other means of acquisition
25 shall be void and ineffective) until said person or entity
26 executes and delivers to the Joint Venture a counterpart of
27 the Joint Venture Agreement.

28 (b) A person acquiring an interest in the Joint
29 Venture, including but not limited to the personal representative
30 and heirs of a deceased joint venturer, shall have only such
31 rights and shall be subject to all the obligations as provided
32 in this Agreement.

11-JOINT VENTURE AGREEMENT

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NORWALK, IDAHO 83428

1 5.5 TERMINATION AND LIQUIDATION

2 (a) Events Causing Termination. The Joint Venture shall
3 be terminated and its affairs wound up upon:

4 (1) The bankruptcy, insolvency, death or adjudication
5 of insanity or incompetency of a joint venturer, and
6 without requiring a separate court decree of dissolution;
7 or

8 (2) The mutual written consent of all of the
9 joint venturers; or

10 (3) The occurrence of any event or the taking of
11 any action which shall be a cause for dissolution under
12 applicable joint venture law at the time of such
13 occurrence or act, unless otherwise expressly provided
14 herein. An authorized transfer pursuant to Paragraph
15 5.2, shall not constitute an event causing termination.

16 (b) Actions Upon Termination.

17 (1) Upon the termination of the Joint Venture, an
18 audit shall be taken by the Joint Venture designated
19 certified public accountant, and any profits or
20 losses incurred since the last previous valuation date
21 shall be allocated as herein provided, and any cash
22 flow remaining undistributed shall be distributed as
23 herein provided. The joint venturers or such other
24 person(s) required by law to carry out the winding up,
25 shall wind up and liquidate the Joint Venture by selling
26 the Joint Venture's assets (unless it distributes the
27 assets in kind) and distributing the net proceeds
28 therefrom as provided below.

29 (2) If the assets of the Joint Venture are to be
30 distributed as provided in this Paragraph 5.5(b),
31 adequate provision shall be made for the payment of the
32 debts and obligations of the Joint Venture, including

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all expenses, costs and fees incurred in connection with the winding up, and the remaining assets of the Joint Venture shall be distributed in the following order of priority, and in satisfaction of all joint venturers' interests in the Joint Venture:

(i) First, to the setting up of any reserve which the joint venturers shall reasonably deem necessary to provide for any contingent or unforeseen liabilities or obligations of the Joint Venture. At the expiration of such period of time as the joint ventures shall deem advisable, the balance of such reserve remaining after the payment of such contingencies shall be distributed in the manner hereinafter set forth.

(ii) Second, the balance of such assets shall be distributed to all the joint venturers, pro rata in accordance with their respective capital account balances as of the date of distribution.

If the joint venturers, or such other person as is required by law to wind up the affairs, shall determine that all of the assets of the Joint Venture shall be distributed in kind, such assets shall be distributed on the basis of the then fair market value thereof.

(3) A reasonable time shall be allowed for the orderly liquidation of the assets of the Joint Venture and the discharge of liabilities, so as to minimize the normal losses attendant upon a liquidation.

ARTICLE SIX

VOTING

6.1 VOTING

Each joint venturer shall be entitled to vote their percentage of ownership whenever appropriate at Joint Venture meetings and if vote is required or mandated. A majority vote shall be any vote in excess of fifty percent

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BOISE, IDAHO 83701

1 (50%) of the total one hundred percent (100%) ownership.

2
3 ARTICLE SEVEN

4 FISCAL MATTERS

5
6 7.1 BOOKS AND RECORDS

7 The Joint Venture shall maintain full and accurate
8 books of the Joint Venture at the Joint Venture's principal
9 place of business, showing all receipts and expenditures,
10 assets and liabilities, profits and losses, and all other
11 records necessary for recording the Joint Venture's business
12 and affairs, including those sufficient to record the allocations
13 and distributions provided for in ARTICLE FOUR. Each joint
14 venturer shall at all times during regular business hours
15 have access to and may inspect and copy any of such books
16 and records. All costs and expenses actually and necessarily
17 incurred of keeping such books of account shall be treated
18 as a Joint Venture expense.

19
20 7.2 ACCOUNTING PERIOD

21 The accounting period of the Joint Venture shall be the
22 calendar year.

23
24 7.3 BANK ACCOUNTS AND INVESTMENT OF FUNDS

25 Joint Venture moneys received from any and all sources
26 shall be deposited in the name of TCM Joint Venture in the
27 Idaho First National Bank, Eagle Branch. Any withdrawals on
28 the Joint Venture account shall be signed by Jack Miller,
29 Darwin McKay, Christy Grow, and/or Pat Sturr, it being under-
30 stood that any two (2) signatures shall be required on each with-
31 drawal and the proper signature card or cards are to be deposited
32 with said bank before any checks are drawn on the account.

14-JOINT VENTURE AGREEMENT

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P.O. BOX 8482
BOISE, IDAHO 837015 WEST OMYKKE
NOMEDALE, IDAHO 836281 7.4 ACCOUNTING DECISIONS

2 All decisions as to accounting matters, except as
3 specifically provided to the contrary herein, shall be made
4 jointly by the joint venturers in accordance with generally
5 accepted accounting principles consistently applied. Such
6 decisions must be acceptable to the certified public
7 accountants performing any audits.

8
9 ARTICLE EIGHT10 EFFECT OF DIVORCE11
12 8.1 CONTINUATION OF JOINT VENTURE

13 In the event any joint venturer shall sue or be sued
14 for divorce, the joint venturer shall have thirty (30) days
15 from the serving of the subpoena upon the named defendant in
16 said divorce action within which to transfer complete
17 ownership of the Joint Venture to either the joint venturer
18 or the spouse. Further, in the event such a transfer cannot
19 be negotiated and finalized within said thirty (30) day
20 period, the joint venturer and spouse shall sell the total
21 interest to the remaining joint venturers and/or Joint
22 Venture pursuant to the price and terms set forth in ARTICLE
23 FIVE.

24
25 ARTICLE NINE26 GENERAL PROVISIONS27
28 9.1 NOTICES

29 Except as otherwise provided in this Agreement, any and
30 all notices, consents, waivers, directions, requests, votes
31 or other instruments or communications provided for under
32 this Agreement shall be in writing, signed by the party

15-JOINT VENTURE AGREEMENT

FROM
YAMADA, DONOVAN & YATES, CTD.
ATTORNEYS AT LAW

P.O. BOX 2152
BOISE, IDAHO 83701

3 WEST OMYHER
HOMEDALE, IDAHO 83428

1 giving the same and shall be deemed properly given only if
2 delivered or if sent by registered or certified United
3 States mail, postage prepaid, addressed to the Joint Venture
4 at the principal place of business of the Joint Venture.

5 Any notice so given shall be deemed to have been
6 received as of the date on which it was mailed. Each joint
7 venturer may, by written notice to the Joint Venture,
8 specify his address for the receipt of such instruments or
9 communications to him.

10

11 9.2 INTEGRATION

12 This Agreement embodies the entire agreement and under-
13 standing among the joint venturers relating to the subject
14 matter hereof, and supersedes all prior agreements and
15 understandings relating to such subject matter.

16

17 9.3 APPLICABLE LAW

18 This Agreement and the rights of the joint venturers
19 shall be governed by and construed and enforced in accordance
20 with the laws of the State of Idaho.

21

22 9.4 SEPARABILITY

23 In case any one or more of the provisions contained in
24 this Agreement or any application thereof shall be invalid,
25 illegal or unenforceable in any respect, the validity,
26 legality or unenforceability of the remaining provisions
27 contained herein and any other application thereof shall not
28 in any way be affected or impaired thereby.

29

30 9.5 BINDING EFFECT

31 Except as herein otherwise provided to the contrary,
32 this Agreement shall be binding upon, and inure to the benefit

16-JOINT VENTURE AGREEMENT

YAMADA, DONOVAN & YATES, CTD.

ATTORNEYS AT LAW

P.O. BOX 1883
BOONE, INDIANA 477013 WEST OWYHEE
NOMADALE, INDIANA 47226

1 of, the joint venturers and their respective heirs, executors,
2 administrators, successors and permitted assigns.

3
4 **9.6 FURTHER ASSURANCES**

5 The joint venturers will execute and deliver such
6 further instruments and do such further acts and things as
7 may be required to carry out the intent and purpose of this
8 Agreement.

9
10 **9.7 CAPTIONS**

11 Captions and headings contained in this Agreement are
12 inserted only as a matter of convenience, and in no way
13 define, limit, extend or describe the scope of this Agreement
14 or the intent of any provision thereof.

15
16 **9.8 BENEFIT**

17 None of the provisions of this Agreement shall be for
18 the benefit of or enforceable by any creditors of the Joint
19 Venture.

20
21 **9.9 AMENDMENT**

22 This Agreement may not be modified or amended except in
23 writing and with the written consent of all joint venturers.

24
25 **9.10 KNOWLEDGE**

26 Each of the joint venturers and each of their spouses
27 hereby acknowledge that prior to their execution hereof,
28 there has been made available to them for inspection, the
29 various provisions and agreements referred to herein.

30
31
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17-JOINT VENTURE AGREEMENT

YAMADA, DONOVAN & YATES, LTD.

ATTORNEYS AT LAW

P.O. BOX 2008
BOISE, IDAHO 83701

3 WEST GUYTON
HOMERDALE, IDAHO 83826

9.11 TITLES

No agent, employee or associate of the joint venturers shall have any official title (e.g. President, Vice-President, General Manager, etc.) without the express written consent of the joint venturers, except as provided herein.

9.12 INDEMNIFICATION

Each joint venturer shall punctually pay and discharge his separate and private debts and engagements and indemnify the Joint Venture from and against all actions, proceedings, costs, claims, and demands in respect thereof.

9.13 NEGATION OF PARTNERSHIP

Nothing contained in this Agreement, or otherwise shall constitute the parties general partners, or render them liable to contribute more than the amount or payments as aforesaid, or entitle them to any participation in the results of the profits of the joint venture other than as specified in this Agreement. This Agreement is intended to create a joint venture, not a general partnership.

IN WITNESS WHEREOF, The parties have executed this Agreement on the day and year above written.

JOINT VENTURER

PERCENTAGE


JACK E. MILLER

Ten percent (10%)


FRED DEL GADILLO, SR.

Ten percent (10%)

18-JOINT VENTURE AGREEMENT

YAMADA, DONOVAN & YATES, CTD.

ATTORNEYS AT LAW

P.O. BOX 1488
BOISE, IDAHO 837012 WEST CENTER
HOMIDALE, IDAHO 83438

1 Fred Delgadillo, Jr. Five percent (5%)
 2 FRED DEL GADILLO, JR.
 3 Christopher J. Kepus Ten percent (10%)
 4 CHRISTOPHER J. KEPUS
 5 Alfred W. Sturr Ten percent (10%)
 6 ALFRED W. STURR
 7 John Grow Ten percent (10%)
 8 JOHN GROW
 9 Richard Lavender Ten percent (10%)
 10 RICHARD LAVENDER
 11 L. Darwin McKay Five percent (5%)
 12 L. DARWIN MCKAY
 13 Fred Nakaji Ten percent (10%)
 14 FRED NAKAJI
 15 Michael R. Miller Ten percent (10%)
 16 MICHAEL R. MILLER
 17 Loyal A. Mehrhoff Ten percent (10%)
 18 LOYAL A. MEHRHOFF
 19

SPOUSES

24 I/We have read the above Joint Venture Agreement and
 25 agree to be bound by all the terms and conditions thereof.

26 Carol A. K. Miller Diane Delgadillo
 27 CAROL A. K. MILLER DIANE DEL GADILLO
 28 Kathleen M. Kepus Patricia A. Sturr
 29 KATHLEEN M. KEPUS PATRICIA A. STURR
 30
 31
 32

YAMADA, DONOVAN & VATES, CTD.
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HOMERDALE, IDAHO 83408

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Christy Grom
CHRISTY GROM

Molly Nakaji
MOLLY NAKAJI

Karen J. Miller
KAREN J. MILLER

Barbara Lavender
BARBARA LAVENDER

Donna McKay
DONNA MCKAY

Irene Mehrhoff
IRENE MEHRHOFF

YAMADA, DONOVAN & YATES, CTD.
ATTORNEYS AT LAW

P.O. BOX 1382
EGLISE, ILLINOIS 61701

2 WEST OWNERS
HOMEDALE, ILLINOIS 60438

EXHIBIT "B"

A. Federal Land Bank Mortgage:

On the first day of October of each year eight hundred dollars (\$800.00) until paid in full.

B. Majorie Pickett Real Estate Contract:

On the first day of May of each year two thousand eight hundred eighty-seven dollars and 61/100 (\$2,887.61) until the first day of May, 1984 when the then outstanding balance of approximately thirty-three thousand nine hundred seventy-one dollars and 89/100 (\$33,971.89) shall be paid in full.

C. Dick Miller Real Estate Contract:

On the first day of May of each year four thousand eight hundred dollars (\$4,800.00) until the first day of May, 1984 when the then outstanding balance plus accrued interest shall be paid in full.

D. The Amended Escrow Agreement:

Semiannual installments each in the sum of twelve thousand two hundred eighty-eight dollars and 72/100 (\$12,288.72) each year, including interest, on or before the 15th day of January and the 15th day of July of each year, beginning the 15th day of January, 1979, until the 15th day of January, 1989. All unpaid balances shall draw interest at a rate of 8 1/2 % per annum from the date of this Agreement, each payment made hereunder to be first applied to the payment of accrued interest and the balance to be applied on the principal sum.

The entire principal balance together with interest due shall be paid on or before the 15th day of January, 1989.