

RECEIVED

JAN 17 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

DEPARTMENT 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): 35-8664 35-8997 35-2167A 35-8085 35-2112 35-8084 35-2456 35-2733 35-7905 ²¹³³

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

Idaho AgCredit, FLCA

P.O. Box 300

American Falls, ID 83211

4. Name of Water Right Owner/Claimant(s) Driscoll Brothers, A Partnership

5. Expiration Date of Notification Period September 1, 2030

6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO

7. Signature(s) (and title if applicable) Bart Brown

V.P.

For Office Use Only

Received by _____ Date _____ Fee \$ 225 -
 Received by JC Date 1-12-06 Receipt No. E031555
 Processed by _____ AJ Date _____ WR _____ Date _____

SUPPORT DATA

IN FILE # 35-2112

RECEIVED

JAN 12 2006

Department of Water Resources
Eastern Region

Recording Requested by:

WHEN RECORDED MAIL TO:

IDAHO
AGRICULTURAL CREDIT ASSN.
P.O. Box 300
American Falls, ID 83211

559704

Loan No.: 231-007-0005214211-5570050-101

2005 OCT 24 PM 3:03

RECORDED AT THE REQUEST OF

REAL ESTATE MORTGAGE FIRST AMERICAN TITLE COMPANY

THIS MORTGAGE is made this September 22, 2005 between DRISCOLL BROTHERS, A Partnership, By: WALLACE BROCK DRISCOLL, MARTIN DIRK DRISCOLL, LORAINÉ D. DRISCOLL, and THAYNE J. DRISCOLL, Partners; and Individually By: WALLACE BROCK DRISCOLL and TENA DRISCOLL, MARTIN DIRK DRISCOLL and DAYNA DRISCOLL, LORAINÉ D. DRISCOLL and TAMARA D. DRISCOLL, and THAYNE J. DRISCOLL and ANDRA DRISCOLL, husbands and wives; and DRISCOLL III LIMITED PARTNERSHIP, An Idaho Limited Partnership, By: WALLACE W. DRISCOLL and MAURINE D. DRISCOLL, General Partners; and Individually By: WALLACE W. DRISCOLL and MAURINE D. DRISCOLL, husband and wife, whose address is PO Box 129 American Falls, Idaho 83211 hereinafter called "Mortgagor", and Idaho AgCredit, FLCA ("Mortgagee"), a wholly owned subsidiary of Idaho Agricultural Credit Association, a corporation, existing and operating under the Farm Credit Act of 1971, as amended, having its principal place of business at 188 W. Judicial P.O. Box 985, Blackfoot, Idaho 83221.

WITNESSETH: That Mortgagor IRREVOCABLY GRANTS, BARGAINS, SELLS, CONVEYS AND ASSIGNS unto Mortgagee together with right of entry and possession the following described real property situated in the County(ies) of Bingham and Power, State of Idaho:

SEE ATTACHED SCHEDULE A FOR REAL ESTATE DESCRIPTION, TOGETHER WITH FIXTURES AND APPURTENANT SPRINKLER EQUIPMENT IF ANY.

TOGETHER WITH: All fixtures, including but not limited to the following: All pumps, motors, columns, tubes, shafts, bowls, panels and all electrical appurtenances, mainline, laterals, wheel lines, pivot/circle irrigation systems, risers, heads, couplers, end plugs, valves, valve openers, reducers, joints, tees and wyes, as well as all additions and replacements thereof, hereby declared appurtenant thereto and which are more particularly described on the attached Schedule A.

TRACT A:

TOGETHER WITH: Idaho Department of Water Resources License Number 35-8664, Priority Date April 11, 1988, 1.54 CFS.
TOGETHER WITH: Idaho Department of Water Resources License Number 35-8997, Priority Date April 20, 1992, 3.0 CFS.
TOGETHER WITH: 160 shares of stock, Certificate #4563 or as may be re-issued in Aberdeen-Springfield Canal Company.

TRACT B:

TOGETHER WITH: Idaho Department of Water Resources License Number 35-2167A, Priority Date April 7, 1950, 3.14 CFS.
TOGETHER WITH: Idaho Department of Water Resources License Number 35-8085, Priority Date January 17, 1983, 1.37 CFS.
TOGETHER WITH: Idaho Department of Water Resources License Number 35-2112, Priority Date October 13, 1948, 4.0 CFS.
TOGETHER WITH: Idaho Department of Water Resources License Number 35-8084, Priority Date January 17, 1983, .41 CFS.
TOGETHER WITH: 340 shares of stock, Certificate #4378 or as may be re-issued in Aberdeen-Springfield Canal Company.
8084

TRACT C:

TOGETHER WITH: Idaho Department of Water Resources License Number 35-2456, Priority Date March 30, 1956, 2.54 CFS.
TOGETHER WITH: Idaho Department of Water Resources License Number 35-2733, Priority Date February 24, 1964, 3.08 CFS.
TOGETHER WITH: Idaho Department of Water Resources License Number 35-7905, Priority Date April 27, 1987, 2.43 CFS.
(License Number 35-2733 and License Number 35-7905 are limited to 4.08 CFS)

This real estate is offered to secure the note identified below in the name(s) of DRISCOLL BROTHERS, A Partnership, By: WALLACE BROCK DRISCOLL, MARTIN DIRK DRISCOLL, LORAINÉ D. DRISCOLL, and THAYNE J. DRISCOLL, Partners; and Individually By: WALLACE BROCK DRISCOLL and TENA DRISCOLL, MARTIN DIRK DRISCOLL and DAYNA DRISCOLL, LORAINÉ D. DRISCOLL and TAMARA D. DRISCOLL, and THAYNE J. DRISCOLL and ANDRA DRISCOLL, husbands and wives, as well as any renewals or extensions thereof.

This Mortgage is also given for the purpose of securing the payment of the obligations of DRISCOLL III LIMITED PARTNERSHIP, An Idaho Limited Partnership, By: WALLACE W. DRISCOLL and MAURINE D. DRISCOLL, General Partners; and Individually By: WALLACE W. DRISCOLL and MAURINE D. DRISCOLL, under a Continuing Guaranty - Recourse to mortgagee.

This real estate mortgage is also intended to be a fixture filing and to be indexed not only as a mortgage but also as a fixture filing.

Instrument # 188086

POWER COUNTY, IDAHO

2005-10-24 04:20:24 No. of Pages: 9

Recorded for: FIRST AMERICAN TITLE

CHRISTINE STEINLICHT

Ex-Officio Recorder Deputy

Fee: 27.00

COPY

TOGETHER WITH: all buildings, structures, equipment, fixtures (including trees, vines and shrubs) and improvements of every kind and description now or hereafter constructed or placed thereon; all standing timber and timber to be cut located thereon; all existing and future water rights, however evidenced, to the use of water for irrigation, livestock and domestic purposes, including irrigation and watering equipment and systems, ditches, laterals, conduits, and rights-of-way used to convey such water or to drain the above-described property, all of which rights are hereby made appurtenant to the property, and all pumping plants, electrical generators, wind machines, and fencing and storage tanks, now or hereafter used in connection with the property, all of which are hereby declared to be fixtures; all grazing rights, leases, permits and licenses; all oil, gas, and mineral leases, permits and rights used with the property; and all tenements, hereditaments, easements, rights-of-way and appurtenances to the property (hereafter collectively referred to as the "Property").

MORTGAGOR ABSOLUTELY AND UNCONDITIONALLY ASSIGNS, transfers, conveys and sets over to Mortgagee all the rents, royalties, issues, profits, revenue, income and other benefits of the property arising from the use or enjoyment of all or any portion thereof or from any lease, mineral lease, or agreement pertaining thereto (collectively the "Rents"); SUBJECT, HOWEVER, to the right, power and authority given to and conferred upon Mortgagor by Paragraph B.3 hereof.

FOR THE PURPOSE OF SECURING: (1) payment of the indebtedness or obligations evidenced by the following promissory note(s) and/or guaranties executed by Mortgagor and/or others to the Mortgagee at the times, in the manner and with interest as therein set forth (notes may contain variable or adjustable rate provisions):

DATE OF NOTE
September 22, 2005

MATURITY DATE
September 1, 2030

AMOUNT OF NOTE
\$2,468,950.00

(2) the payment of such additional loans or advances, including advances under a revolving line of credit, with interest thereon, as hereafter may be made to Mortgagor, or Mortgagor's successors or assigns, and/or to parties whose obligation Mortgagor is guaranteeing, evidenced by a promissory note or otherwise and any obligations evidenced by any guaranties executed by Mortgagor in favor of Mortgagee; PROVIDED HOWEVER, THAT, such additional loans, advances, guaranty obligations shall be secured by this Mortgage only if the promissory note, guaranty, or other document evidencing such loans or advances shall recite that it is to be secured by this Mortgage; (3) the payment of any substitute notes, renewals, reamortizations, and extensions of all indebtedness secured by this Mortgage; (4) the performance of every obligation and agreement of Mortgagor whether contained or incorporated by reference in this Mortgage, or contained in any loan document or guaranty executed by Mortgagor in favor of Mortgagee, with respect to any loan, advance, or guaranty secured by this Mortgage; and (5) the payment of all sums expended or advanced by Mortgagee under or pursuant to the terms of this Mortgage, together with interest thereon as herein provided. The continuing validity and priority of this Mortgage as security for future loans, advances or guaranties shall not be impaired by the fact that at certain times hereafter there may exist no outstanding indebtedness from Mortgagor to Mortgagee or no commitment to make loans or advances.

A. TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES:

1. To use loan proceeds solely for the purposes set forth in the loan application(s) or agreements; to comply with the Farm Credit Act of 1971, as amended, and/or the regulations of the Farm Credit Administration, now existing or as hereafter amended.
2. To keep the Property in good condition, working order and repair; care for the Property in accordance with standards of good husbandry and to keep all trees, vines and crops on said land properly cultivated, irrigated, fertilized, sprayed, and fumigated; not to remove, destroy or suffer the removal or destruction of any building, fence, canal, well or other improvements or fixtures thereon; not to remove, replace or alter any horticultural or viticultural tree, vine or shrub planted thereon without the prior written consent of Mortgagee, except in the ordinary course of business; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon; to comply with all laws, covenants and restrictions affecting the Property; not to commit or permit waste thereof; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary, the specific enumerations herein not excluding the general; to observe and perform all obligations of Mortgagor under any lease of the Property.
3. To provide, maintain and deliver to Mortgagee fire and all other types of insurance of the type and in amounts as Mortgagee may require, with loss payable clauses solely in favor of Mortgagee. In the event of loss, the insurance proceeds, or any part thereof, may be applied by Mortgagee, at its option, to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In the event that the Mortgagor shall fail to provide satisfactory hazard insurance, Mortgagee may procure, on Mortgagor's behalf, insurance in favor of Mortgagee alone. If insurance cannot be secured by Mortgagor to provide the required coverage, such inability shall constitute an event of default hereunder.
4. To appear in and litigate any action or proceeding purporting to affect the security hereof, the title to the Property, or the rights or powers of Mortgagee; Mortgagee may appear in and litigate any such action or proceedings, including any bankruptcy, partition or condemnation proceeding, affecting the Property, or Mortgagee's interest therein, in which event Mortgagor agrees to pay all costs and expenses thereof, including attorney's fees and costs of securing evidence of title.
5. To pay on or before the due date all taxes and assessments affecting the Property, including all assessments upon water company stock and all rents, assessments and charges for water, appurtenant to or used in connection with the Property; to pay, when due, all encumbrances, charges, and liens, on the Property or any part thereof, which at any time appear to be prior or superior hereto.
6. In case of any suit to foreclose this Mortgage or to collect any charge arising out of the debt hereby secured, or of any suit which the Mortgagee may deem necessary to prosecute or defend to effect or protect the lien herein, including any proceeding in bankruptcy, or if Mortgagee retains an attorney to advise Mortgagee in connection with this Mortgage or any other agreement related to the indebtedness secured by this Mortgage, Mortgagor agrees to pay a reasonable sum as attorney's fees and all costs and legal expenses in connection with said suit, and further agrees to pay the reasonable costs of searching the records and abstracting or insuring the title, and such sums, costs and expenses shall be secured hereby and shall be included in any decree of foreclosure. The fees and costs described herein and elsewhere in this Mortgage shall be in addition to those set forth in the loan agreement or any other written agreement between Mortgagor and Mortgagee.
7. Should Mortgagor fail to make any payment or to do any act as provided for in this Mortgage, then Mortgagee, but without obligation to do so and without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the Property, Mortgagee being authorized to enter upon the Property for such purposes; commence, appear in and litigate any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee, including any bankruptcy proceeding affecting the Property; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, incur any liability, expend whatever amounts in its absolute discretion it may deem necessary therefore, including attorney's, accountant's, appraisal, and environmental fees, and costs of securing evidence of title, and all amounts so expended shall be obligations of Mortgagor secured by this Mortgage. Nothing contained herein shall prohibit Mortgagee from entering the Property, at a reasonable time and upon reasonable notice to Mortgagor, without incurring or assuming any obligations or liabilities whatsoever, for the sole purpose of inspecting the Property.
8. To pay immediately and without demand all sums expended by Mortgagee pursuant to the provisions hereof, with interest from date of expenditure at the same rate as is provided for in the note or notes secured by this Mortgage. In the event that such sums are not immediately paid, they shall be added, along with the appropriate amount of capital stock or participation certificates, to the principal balance of the indebtedness secured hereby and shall accrue interest as herein set forth. All such sums shall be secured hereby.
9. Environmental Representations, Warranties and Covenants.
 - (a) Except as disclosed in writing to Mortgagee, or except as otherwise provided in any loan agreement between Mortgagee and Mortgagor which specifically refers to the Property, to the best knowledge of Mortgagor after due inquiry, Mortgagor hereby further represents, warrants and covenants as follows:
 - (i) No pollutants, contaminants (including oil or other petroleum products), toxic or hazardous substances, or solid or hazardous wastes, as such terms are defined under any federal, state or local Environmental Law, regulation or ordinance (hereinafter "Contaminants") have been, are being or will be generated, manufactured, produced, stored, disposed of, discharged, released, threatened to be released, or otherwise allowed to migrate or escape on, under or from the Property in such quantities or concentrations as would violate any federal, state or local Environmental Law, regulation or ordinance or as would require Mortgagor to report such condition to any governmental authority or to undertake removal or remedial action to clean up such contaminants;

(ii) No Contaminants are located on, in or under any property located adjacent to the Property in such quantities or concentrations as would constitute a violation of any Environmental Law or as would require the owner of the adjacent property to report such condition to any governmental authority or to undertake removal or remedial action to clean up such Contaminants;

(iii) Neither the Property, nor any portion thereof, nor any adjacent property or portion thereof, has been or is proposed to be listed under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601, et seq.), or any analogous state law. Mortgagor shall immediately notify Mortgagee if Mortgagor acquires any information concerning the listing or proposed listing of the Property or any adjacent property and shall provide Mortgagee with any documents in Mortgagor's possession relative thereto;

(iv) No hazardous wastes, as defined under the Federal Resource Conservation and Recovery Act (42 U.S.C. Section 6901, et seq.), or any analogous state law ("Hazardous Wastes"), have been, are being or will be stored or treated in surface impoundments or other structures or facilities located on the property that are partially or entirely below the ground surface;

(v) No litigation, investigation, administrative order, consent order, agreements, or other action, proceeding or settlement (hereinafter "Action") has previously been brought, is now pending, or to the best knowledge of Mortgagor threatened against or anticipated by Mortgagor, with respect to Mortgagor's use or management of Hazardous Materials or Hazardous Wastes or the environmental condition of the Property, including any underlying groundwater. Upon learning thereof, Mortgagor shall immediately notify Mortgagee of any such Action or threatened Action and provide Mortgagee with copies of all documentation relative thereto; and

(vi) Except as disclosed in writing to Mortgagee, no underground tanks, wells (except domestic water wells), septic tanks, ponds, pits or any other storage tanks ("Tanks") (whether currently in use or abandoned) are or were located on or under the Property and no Tanks are or were serving the Property described herein. With respect to any Tanks disclosed in writing to Mortgagee, Mortgagor shall comply with all federal, state and local laws, regulations and ordinances and any requirements of city or county fire departments, applicable to the maintenance and use of such Tanks, including, without limitation, Title 40 of the Code of Federal Regulations Part 112.

(b) Nothing herein shall be deemed to prohibit Mortgagor from (i) using, handling or storing hazardous materials or substances, as defined under any federal, state or local law, regulation or ordinance ("Hazardous Materials") or (ii) storing or treating non-hazardous wastes, so long as such activities are carried out (a) in a good and husbandlike manner in the ordinary course of business, and (b) in compliance with all applicable environmental laws, regulations, permits, orders or other requirements.

(c) In the event that Mortgagor is in breach of any of its representations, warranties or covenants as set forth above, Mortgagor, at its sole expense, shall take all action required, including environmental cleanup of the Property, to comply with the representations, warranties and covenants herein or applicable legal requirements and, in any event, shall take all action deemed necessary by appropriate governmental authorities. Mortgagee shall have the right, but not the obligation, to advise appropriate governmental authorities of any environmental condition on or affecting the Property that constitutes or may constitute a breach of Mortgagor's obligations hereunder.

(d) Mortgagor and its successors and assigns shall indemnify, defend, protect, and hold harmless Mortgagee, its directors, officers, employees, agents, shareholders, successors and assigns and their officers, employees or agents, from and against any and all claims, suits, damages, liens, losses, liabilities, interest, judgments, response and cleanup costs, demands, actions, causes of action, injuries, administrative proceedings and orders, consent agreements and orders, penalties, costs and expenses (including any fees and expenses incurred in enforcing this indemnity, any out-of-pocket litigation costs and the reasonable fees and expenses of counsel) of any kind whatsoever ("Claims") paid, incurred or suffered by, or asserted against Mortgagee, including but not limited to Claims arising out of loss of life, injury to persons, trespass or damage to or contamination of property or natural resources, or injury to business, in connection with or arising out of the activities of Mortgagor on the Property, Mortgagor's predecessors in interest, third parties who have been invited, permitted or trespassed on the Property, or parties in a contractual relationship with Mortgagor, or any of them, or which directly or indirectly arise out of or result from or in any way connected with the Property, whether or not caused by Mortgagor or within the control of Mortgagor, including without limitation: (i) the presence, use, generation, treatment, storage, disposal, release, threatened release, or discharge of any Hazardous Material or Contaminant at or from the Property and/or the cleanup of Hazardous Materials or Contaminants within, on or under the Property; (ii) Mortgagor's breach of any of the representations, warranties and covenants contained herein; and (iii) Mortgagor's violation or alleged violation of any applicable Environmental Law, regulation or ordinance.

(e) Mortgagor's representations, warranties, covenants and indemnities contained herein shall survive the occurrence of any event whatsoever, including without limitation the payoff of any promissory note(s) secured hereby, the release or foreclosure of this Mortgage, the acceptance by Mortgagee of a deed in lieu of foreclosure, or any transfer or abandonment of the Property.

(f) The term "Environmental Law" shall mean any federal, state or local law, statute, ordinance, or regulation, now in effect or hereinafter enacted, pertaining to health, industrial hygiene, or the environmental conditions on, under or about the Property, including but not limited to enactments requiring the removal or containment of asbestos-containing materials in private buildings.

(g) Mortgagor shall permit, or cause any tenant of Mortgagor to permit, Mortgagee or its agents, or independent contractors to enter and inspect the Property at any reasonable time for purposes of determining, as Mortgagee deems necessary or desirable: (i) the existence, location and nature of any Hazardous Materials or Hazardous Wastes on, under or about the Property, (ii) the existence, location, nature, magnitude and spread of any Hazardous Materials or Hazardous Waste that has been spilled, disposed of, discharged or released on, under or about the Property, or (iii) whether or not Mortgagor and any tenant of Mortgagor is in compliance with applicable Environmental Law. If Mortgagor or its tenants fail to comply fully with the terms of this subdivision (g), Mortgagee may obtain affirmative injunctive relief to compel such compliance.

10. Grazing Rights. If any portion of the Property described in this Mortgage is used by Mortgagor as the basis for obtaining grazing permits or other grazing rights issued by any governmental agency, including without limitations the Forest Service, U.S. Department of Agriculture or the Bureau of Land Management, U.S. Department of Interior, Mortgagor covenants and agrees as follows:

(a) Said grazing permits or other rights are in good standing and have not been modified, reduced or limited in any other respect, except as fully disclosed in writing to Mortgagee;

(b) Mortgagor will perform all obligations imposed as a requirement of exercise of said grazing permits or other rights and will comply with all laws, rules and regulations applicable thereto;

(c) Mortgagor will take such timely action as may be required to cause the renewal or reissuance of said grazing permits or other rights from time to time as they expire during the term thereof. Mortgagor agrees and acknowledges that the failure to renew or cause the reissuance of any said permits for any reason, whether the result of an act or omission of Mortgagor or for reasons beyond Mortgagor's control, is an event of default hereunder and Mortgagee shall have the right to exercise the rights hereinafter set forth in this Mortgage; and

(d) Mortgagor agrees to pay all fees, charges, rents or other payments accruing under said permits or any renewals thereof prior to delinquency. In the event Mortgagor fails to pay any such payment, the amount unpaid shall become a part of the indebtedness secured by this Mortgage and shall be immediately due and payable.

B. IT IS MUTUALLY AGREED THAT:

1. Any award of damages in connection with any taking or condemnation or injury to the Property by reason of public use, or for damages resulting from private trespass or injury to the Property, is absolutely and unconditionally assigned and shall be paid to Mortgagee, under the terms and conditions of this Mortgage pertaining to Rents. Upon receipt of such money Mortgagee may apply the same on the indebtedness secured hereby. Mortgagor agrees to execute such further documents as may be required to effect the assignments herein made as Mortgagee may require.

2. At any time, without affecting the liability of any person for the payment of the indebtedness secured hereby, and without otherwise affecting the security hereof, Mortgagee may (a) consent to or join in the making of any map or plat of the Property; (b) grant any easement or create any restriction thereof; (c) subordinate this Mortgage; (d) extend or modify the term of the loan or loans secured hereby; and (e) release without warranty, all or any part of the Property.

3. Prior to any default by Mortgagor in the payment, observance, performance and discharge of any condition, obligation, covenant, or agreement of Mortgagor contained herein, Mortgagor may, for collection and distribution purposes only, collect and receive the Rents as they come due and payable; the Rents are to be applied by Mortgagor to the payment of the principal and interest and all other sums due or payable on any promissory note or guaranty secured by this Mortgage and to the payment of all other sums payable under this Mortgage and, thereafter, so long as the aforesaid has occurred, the balance shall be distributed to the account of Mortgagor. Upon any such default, Mortgagee may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of the Property or any part thereof, in his own name, sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Mortgagee may determine; also perform such acts of repair, cultivation, irrigation or protection, as may be necessary or proper to conserve the value of the Property; also lease the same or any part thereof for such rental, term, and upon such conditions as its judgment may dictate; also prepare for harvest, remove, and sell any crops that may be growing upon the Property, and apply the proceeds thereof upon the indebtedness secured hereby.

4. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, or the proceeds of fire and other insurance policies, or compensation or awards for any taking of or damage to the Property, and the application or release thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

5. Upon default by Mortgagor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable at the option of the Mortgagee and in accordance with applicable state law. In the event of default, Mortgagee may employ counsel to enforce payment of the obligations secured hereby, may foreclose and, if applicable, sell the Property by advertisement and sale, and in accordance with other applicable state law, and may exercise such other rights and remedies granted by law and equity, which rights and remedies shall be cumulative and not exclusive. Mortgagee may resort to and realize upon the security hereunder and any other real or personal property security now or hereafter held by Mortgagee for the obligations secured hereby in such order and manner as Mortgagee may, in its sole discretion, determine. Resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawful nonjudicial proceedings, or both. If the obligation secured by this Mortgage is also secured by personal property, fixtures or crops, Mortgagee may enforce its security interest in the personal property, fixtures and crops and its lien under this Mortgage in any manner and in any order or sequence permitted by applicable law. All remedies are cumulative and none are exclusive; no election by Mortgagee to pursue one remedy or item of collateral shall be deemed to be a release or waiver of any other item of collateral or a release or modification of the liability of Mortgagor or any guarantor to pay and perform in full all obligations to Mortgagee. The procedures governing the enforcement by Mortgagee of its foreclosure and provisional remedies against Mortgagor shall be governed by the laws of the state in which the Property is located. Nothing contained herein shall be construed to provide that the substantive law of the state in which the Property is located shall apply to Mortgagee's rights and Mortgagor's obligations hereunder or under the promissory note(s) or guaranties described herein, which are and shall continue to be governed by the substantive law of the state in which the promissory note(s) or guaranties were executed.

6. The failure on the part of the Mortgagee to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Mortgagee of any default shall not constitute a waiver of any other subsequent defaults. Subsequent acceptance of any payment by the holder hereof shall not be deemed a waiver of any default by Mortgagor, or of Mortgagee's rights hereunder as the result of any sale, agreement to sell, conveyance, or alienation, regardless of holder's knowledge of such default, sale, agreement to sell, conveyance, or alienation at the time of acceptance of such payment.

7. 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 holder and owner of any note secured hereby; or, if the note has been pledged, the pledgee thereof. In this Mortgage, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Mortgagor hereunder are joint and several.

8.(a) In the event the herein-described Property, or any part thereof, or any interest therein, is sold, agreed to be sold, conveyed, alienated or transferred, including any water transfer as defined in subsection (b) below, by Mortgagor, or by operation of law or otherwise, except by inheritance, without Mortgagee's prior written consent, all obligations secured hereby, irrespective of the maturity dates, at the option of the holder hereof, and without demand or notice, shall immediately become due and payable. Failure to exercise such option shall not constitute a waiver of the right to exercise this option in the event of subsequent sale, agreement to sell, conveyance or alienation.

(b) A water transfer is any transfer, assignment, sale, exchange, gift, encumbrance, pledge, hypothecation, alienation, grant of option to purchase, or other disposition of, directly, indirectly or in trust, voluntarily or involuntarily, by operation of law or otherwise, or the entry into a binding agreement to do any of the foregoing with respect to all or any part of (i) the groundwater on, under, pumped from or otherwise available to the Property, (ii) Mortgagor's right to remove and extract any such groundwater including any permits, rights or licenses granted by any governmental authority or agency and any rights granted or created by any easement, covenant, agreement or contract with any person or entity, (iii) any rights to which the Property is entitled with respect to surface water, whether such right is appropriative, riparian, prescriptive or otherwise and whether or not pursuant to permit or other governmental authorization, or the right to store any such water, (iv) any water, water right, water allocation, distribution right, delivery right, water storage right, water allocation, or other water-related entitlement appurtenant or otherwise applicable to the Property by virtue of the Property's being situated within the boundaries of any district, agency, or other governmental entity or within the boundaries of any private water company, mutual water company, or other non-governmental entity, or (v) any shares (or any rights under such shares) of any private water company, mutual water company, or other non-governmental entity pursuant to which Mortgagor or the Property may receive any rights.

9. In the event any one or more of the provisions contained in this Mortgage or in any promissory note(s) hereby secured shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage or said promissory note(s), but this Mortgage and said promissory note(s) shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

DRISCOLL BROTHERS, A Partnership, and WALLACE BROCK DRISCOLL, individually, and MARTIN DIRK DRISCOLL, individually, and LORAIN D. DRISCOLL, individually, and THAYNE J. DRISCOLL, individually

By: *Wallace Brock Driscoll*
BROCK DRISCOLL, aka WALLACE BROCK DRISCOLL, individually and as a Partner

By: *Martin Dirk Driscoll*
DIRK DRISCOLL, aka MARTIN DIRK DRISCOLL, individually and as a Partner

By: *Loraine D. Driscoll*
LORAIN D. DRISCOLL, individually and as a Partner

By: *Thayne J. Driscoll*
THAYNE J. DRISCOLL, individually and as a Partner

INDIVIDUALLY BY:

Tena Driscoll
TENA DRISCOLL

Dayna Driscoll
DAYNA DRISCOLL

Tamara D. Driscoll
TAMARA D. DRISCOLL

Andra Driscoll
ANDRA DRISCOLL

DRISCOLL III LIMITED PARTNERSHIP, An Idaho Limited Partnership, and WALLACE W. DRISCOLL, individually, and MAURINE D. DRISCOLL, individually

By: *Wallace W. Driscoll*
WALLACE W. DRISCOLL, individually and as a General Partner

By: *Maurine D. Driscoll*
MAURINE D. DRISCOLL, individually and as a General Partner

ACKNOWLEDGMENT.

See Attached Acknowledgement

STATE OF IDAHO)
)ss.
 County of Blaine)

On this 21 day of October, 2005, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Brock Driscoll, aka Wallace Brock Driscoll, Loraine D. Driscoll, and Thayne J. Driscoll, known to me to be three of the partners in the Partnership of Driscoll Brothers, and three of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that they executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Bart Brown
 Notary Public for the State of Idaho
 Residing at American Falls
 My Commission Expires: 1-25-2011

BART BROWN
NOTARY PUBLIC
STATE OF IDAHO

STATE OF IOWA)
)ss.
 County of Polk)

On this 28th day of September, 2005, before me, the undersigned, a Notary Public in and for the State of IOWA, personally appeared Dirk Driscoll, aka Martin Dirk Driscoll, known to me to be one of the partners in the Partnership of Driscoll Brothers, and one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Erin M. Temeyer
 Notary Public for the State of Iowa
 Residing at 655 S. 50th Street, West Des Moines, IA 50265
 My Commission Expires: May 27, 2007



STATE OF IDAHO)
)ss.
 County of Blaine)

On this 21 day of October, 2005, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Brock Driscoll, aka Wallace Brock Driscoll and Tena Driscoll, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Bart Brown
 Notary Public for the State of Idaho
 Residing at American Falls
 My Commission Expires: 1-25-2011

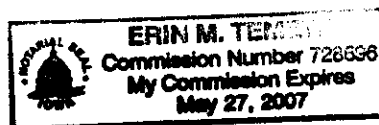
BART BROWN
NOTARY PUBLIC
STATE OF IDAHO

STATE OF IOWA)
)ss.
 County of Polk)

On this 28th day of September, 2005, before me, the undersigned, a Notary Public in and for the State of IOWA, personally appeared Dirk Driscoll, aka Martin Dirk Driscoll and Dayna Driscoll, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Erin M. Temeyer
 Notary Public for the State of IOWA
 Residing at 655 S. 50th Street, West Des Moines, IA 50265
 My Commission Expires: May 27, 2007

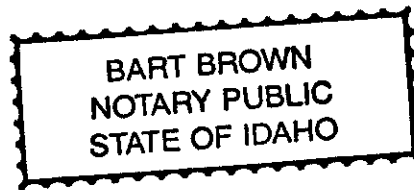


STATE OF IDAHO)
County of Power)ss.

On this 21 day of October, 2005, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Loraine D. Driscoll and Tamara D. Driscoll, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Bart Brown
Notary Public for the State of Idaho
Residing at American Falls
My Commission Expires: 1-25-2011

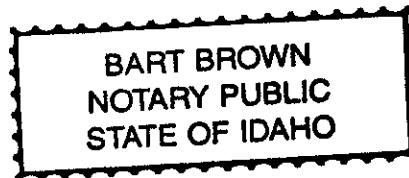


STATE OF IDAHO)
County of Power)ss.

On this 21 day of October, 2005, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Thayne J. Driscoll and Andra Driscoll, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Bart Brown
Notary Public for the State of Idaho
Residing at American Falls
My Commission Expires: 1-25-2011

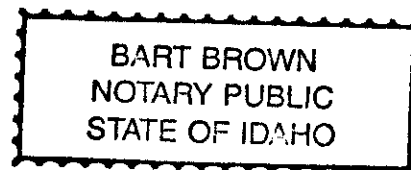


STATE OF IDAHO)
County of Power)ss.

On this 3 day of October, 2005, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Wallace W. Driscoll and Maurine D. Driscoll, known to me to be the General Partners in the Partnership of Driscoll III Limited Partnership, An Idaho Limited Partnership, and the partners who subscribed said partnership name to the foregoing instrument and acknowledged to me that they executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Bart Brown
Notary Public for the State of Idaho
Residing at American Falls
My Commission Expires: 1-25-2011

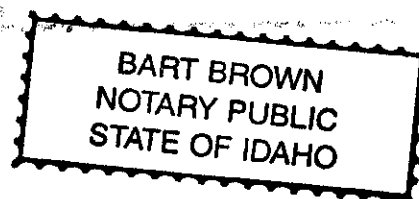


STATE OF IDAHO)
County of Power)ss.

On this 3 day of October, 2005, before me, the undersigned, a Notary Public in and for the State of Idaho, personally appeared Wallace W. Driscoll and Maurine D. Driscoll, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Bart Brown
Notary Public for the State of Idaho
Residing at American Falls
My Commission Expires: 1-25-2011



SCHEDULE A

REAL ESTATE DESCRIPTION TOGETHER WITH FIXTURES AND APPURTENANT SPRINKLER EQUIPMENT IF ANY FOR MORTGAGE DATED September 22, 2005

Driscoll Brothers, A Partnership
Loan No. 231-007-0005214211-5570050-101

REAL ESTATE DESCRIPTION:

TRACT A:

PARCEL 1

Township 4 South, Range 31 E.B.M., Bingham County, Idaho

Section 34: E $\frac{1}{2}$ NE $\frac{1}{4}$, EXCEPTING THEREFROM: Beginning at a point on the East right-of-way of State Highway 39 that is N. 89°26'46" W. 65.04 feet and N. 0°45'44" E. 1486.32 feet to a right-of-way marker marked P.C. Sta. 1081+68.30 50 Lt. And N. 0°16'52" W. 28.04 feet from the E $\frac{1}{4}$ corner of said Section 34; and running thence N. 0°16'52" W. along said East right-of-way line 106.38 feet; thence S. 87°23'18" W. 166.0 feet; thence S. 0°16'52" W. 103.00 feet; thence N. 88°33'36" E. 166.90 feet to the point of beginning.

PARCEL 2

Township 4 South, Range 31 E.B.M., Bingham County, Idaho

Section 35: S $\frac{1}{2}$ NW $\frac{1}{4}$, EXCEPTING THEREFROM: A parcel of land being on the Easterly side of the center line of the State Highway No. 39 Project No. S-1721(14) Highway Survey as shown on the plans thereof now on file in the Office of the Department of Highways of the State of Idaho, and being a portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 35 described as follows to-wit: Beginning at the NW corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section; thence S. 89°05'34" E. along the North line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 36 feet, more or less, to a point in a line parallel with the 50 feet Easterly from the centerline and opposite Station 1079+01.07 of said State Highway No. 39, Project No. S-1721(14) Highway Survey; thence S. 0°45'44" W. along said parallel line 1110.71 feet to a point opposite Station 1067+90.36 of said Highway Survey; thence S. 0°33'15" W. 210 feet, more or less, to a point in the South line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$; thence N. 89°18'29" W. along said South line 35 feet, more or less, to the SW corner of said SW $\frac{1}{4}$ NW $\frac{1}{4}$; thence Northerly along the West line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$ a distance of 1324 feet, more or less, to the place of beginning.

Township 4 South, Range 31 E.B.M., Bingham County, Idaho

Section 35: N $\frac{1}{2}$ NW $\frac{1}{4}$, EXCEPTING THEREFROM: A parcel of land being on both sides of the centerline of State Highway No. 39 Project No. S-1721(14) Highway Survey as shown on the plans thereof now on file in the Office of the Department of Highways of the State of Idaho, and being a portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 35 described as follows to-wit: Beginning at the NW corner of said Section 35; thence southerly along the West line of said Section, 1316 feet, more or less, to the SW corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section; thence S. 89°05'34" E. along the South line of said NW $\frac{1}{4}$ NW $\frac{1}{4}$ 36 feet, more or less, to a point in a line parallel with and 50 feet Easterly from the centerline and opposite Station 1079+01.07 of State Highway No. 39, Project No. S-1721(14) Highway Survey; thence N. 0°45'44" E. along said parallel line 267.23 feet to a point opposite Station 1081+68.30 of said Highway Survey; thence N. 1°54'17" E. 972.72 feet to a point in a line parallel with and 60 feet Easterly from the centerline and opposite Station 1091+41.91 of said Highway Survey; thence N. 1°44'09" E. along said last parallel line 85 feet, more or less, to a point in the North line of said Section; thence N. 89°30'07" W. along said North line 63 feet, more or less, to the place of beginning. ALSO EXCEPTING THEREFROM: A parcel of land beginning at a point that is N. 89°19'39" W. 15.04 feet to the center line of State Highway 39 Project No. FAP S 1721(14) and N. 00°45'44" E. 1586.13 feet on a tangent and S. 89°14'16" E. 50.0 feet to a right-of-way marker at T.C. Station 1081+68.30 50 feet RT. and N. 01°54'17" E. 113.0 feet along the Easterly right-of-way of said Highway 39, all from the W $\frac{1}{4}$ corner of said Section 35; and running thence N. 01°54'17" E. 276.89 feet along said right-of-way; thence N. 88°33'38" E. 315.18 feet; thence S. 01°54'17" W. 276.89 feet; thence S. 88°33'38" W. 315.18 feet to the point of beginning.

TRACT B:

Township 6 South, Range 30 E.B.M., Bingham County, Idaho

Section 25: Lots 1, 2, 3, and 4; W $\frac{1}{2}$ E $\frac{1}{2}$; NW $\frac{1}{4}$, EXCEPT Beginning at the SW corner of the SE $\frac{1}{4}$, thence North 350 feet; thence East 255 feet; thence South 350 feet; thence West 255 feet to the point of beginning. ALSO EXCEPT Beginning at the SE corner of said Section 25, thence N. 1°34'15" E. 68.73 feet to the SW corner of Section 30, Township 6 South, Range 31; thence N. 0°59' E. along the East line of said Section 25 a distance of 525.00 feet; thence N. 89°01' W. 213.45 feet; thence S. 29°59' W. 187.63 feet; thence S. 34°18'56" W. 529.78 feet to the South line of said Section 25; thence N. 89°43'44" E. along said South line 594.84 feet to the point of beginning.

Township 6 South, Range 31 E.B.M., Bingham County, Idaho

Section 30: W $\frac{1}{2}$ NE $\frac{1}{4}$; E $\frac{1}{2}$ NW $\frac{1}{4}$; and that portion of Lots 1 and 2 lying North and West of the Aberdeen-Springfield High Line Canal, and that portion of Lots 1 and 2 lying South and East of the Aberdeen-Springfield High Line Canal. EXCEPTING: A parcel of land in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 30, Township 6 South, Range 31 E.B.M., Bingham County, Idaho described as follows: Commencing at the NW corner of Section 30; thence S. 89°33'15" E. along the north line of said Section 30, a distance of 773.32 feet; thence S. 00°26'45" W., leaving said north line 23.48 feet; to the TRUE POINT OF BEGINNING, said point being a point on the apparent centerline of Gamble Road; thence S. 88°31'34" E. along said centerline 117.00 feet; thence S. 00°18'01" W. leaving said centerline 426.16 feet; thence N. 88°31'34" W. 117.00 feet; thence N. 00°18'01" E. 426.16 feet to the TRUE POINT OF BEGINNING. Subject to an easement for road right-of-way 25.00 feet in width, described as the North 25 feet of the above described parcel of land.

TRACT C:

PARCEL 1

Township 6 South, Range 30 E.B.M., Power County, Idaho

Section 33: NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$

PARCEL 1A

Township 6 South, Range 30 E.B.M., Power County, Idaho

Section 33: NE $\frac{1}{4}$ SE $\frac{1}{4}$

PARCEL 2

Township 6 South, Range 30 E.B.M., Power County, Idaho

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

PARCEL 3

Township 6 South, Range 30 E.B.M., Power County, Idaho

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

FIXTURE AND/OR SPRINKLER EQUIPMENT DESCRIPTION:

TRACT A:

- 1 - 125 HP Newman Electric Motor Serial #S1272902
- 1 - Vertical Turbine Pump Serial #none
- 1 - 50 HP Baldor Electric Booster Motor Serial #195C-482
- 1 - Cornell Centrifugal Pump Serial #88461
- 5 - 1/4 mile Thunderbird Wheel Lines
- 8 - 1/4 mile Thunderbird Wheel Lines
- PVC Main Line

TRACT B:

- 1 - 150 HP U.S. Motor Serial #A01A1078750
- 1 - Berkeley Pump Serial #5510253
- 8 - 1/4 mile Thunderbird Wheel Lines
- 1 - 200 HP G.E. Motor Serial #KMI1013104
- 1 - Berkeley Pump Serial #7700025
- 8 - 1/4 mile Thunderbird Wheel Lines
- 3 - Partial Thunderbird Wheel Lines
- 1 - 75 HP G.E. Motor Serial #5K445XAIA
- 1 - Berkeley Pump Serial #7525589

- 8 - Partial Thunderbird Wheel Lines
- 1 - 40 HP U.S. Motor Serial #IDR-6229-04-376
- 1 - Worthington Pump Serial #unknown
- 5 - Partial Thunderbird Wheel Lines
- 1 - 100 HP G.E. Motor Serial #KMJ1013128
- 1 - Berkeley Pump Serial #7700024
- 11 - Various Length Thunderbird Wheel Lines
- PVC Main Line

TRACT C:

- 1 - 200 HP US Electric Motor Serial #IDCC1010176
- 1 - Layne Vertical Turbine Pump Serial #26876
- 8 - Electric Move Wheel Lines
- 1 - 200 HP Newman Electric Motor Serial #S1189308
- 1 - Layne Bowler Vertical Turbine Pump Serial #17087
- 1 - 125 HP Baldor Electric Booster Motor Serial #1GG47/179G1
- 1 - Cornell Centrifugal Pump Serial #85046
- PVC Main Line

DRISCOLL BROTHERS, A Partnership, and WALLACE BROCK DRISCOLL, individually, and MARTIN DIRK DRISCOLL, individually, and LORAINÉ D. DRISCOLL, individually, and THAYNE J. DRISCOLL, individually

By: *Wallace Brock Driscoll*
 BROCK DRISCOLL, aka WALLACE BROCK DRISCOLL, individually and as a Partner

By: *Martin Dirk Driscoll*
 DIRK DRISCOLL, aka MARTIN DIRK DRISCOLL, individually and as a Partner

By: *Loraine D. Driscoll*
 LORAINÉ D. DRISCOLL, individually and as a Partner

By: *Thayne J. Driscoll*
 THAYNE J. DRISCOLL, individually and as a Partner

DRISCOLL III LIMITED PARTNERSHIP, An Idaho Limited Partnership, and WALLACE W. DRISCOLL, individually, and MAURINE D. DRISCOLL, individually

By: *Wallace W. Driscoll*
 WALLACE W. DRISCOLL, individually and as a General Partner

By: *Maurine D. Driscoll*
 MAURINE D. DRISCOLL, individually and as a General Partner

INDIVIDUALLY BY:

Tena Driscoll
 TENA DRISCOLL

Dayna Driscoll
 DAYNA DRISCOLL

Tamara D. Driscoll
 TAMARA D. DRISCOLL

Andra Driscoll
 ANDRA DRISCOLL

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