

RECEIVED
FEB 14 2006
DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO
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): 36-8661
Adjudication Claim No(s): 36-8661
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
Wells Fargo Financial Leasing, Inc.
5000 Brittonfield Parkway, Suite 900
East Syracuse, NY 13057
 Attn: Virginia Wheeler
4. Name of Water Right Owner/Claimant(s)
DeWit Dairy, Tony DeWit, Melinda DeWit
5. Expiration Date of Notification Period When indebtedness has been paid in full and Lender terminates its liens (estimate 15 years).
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) (and title if applicable)
[Signature]
Lead Development Mgr.

For Office Use Only

Received by MA Date 2-14-06 Fee \$ 25.00
 Received by MA Date 2-14-06 Receipt No. 0000317
 Processed by AJ Date 2-14-06 WR 2-14-06 Date 2-14-06

RECEIVED

FEB 16 2006

DEPARTMENT OF
WATER RESOURCES

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

Wells Fargo Financial Leasing, Inc.
5000 Brittonfield Parkway, Suite 900
Syracuse, NY 13057
Attn: Donna Melfi

Instrument # 214588

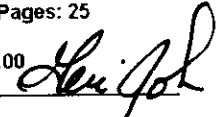
GOODING, GOODING, IDAHO

2006-01-12 11:33:19 No. of Pages: 25

Recorded for : LAND TITLE JEROME

HELEN EDWARDS Fee: 75.00

Ex-Officio Recorder Deputy



G-34879

(Space Above For Recorder's Use)

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

This Mortgage shall operate as and constitute a financing statement filed as a fixtures and as-extracted collateral (minerals, oil and gas, geothermal) filing and is to be indexed as such in the Real Property Records.

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING is made effective as of January 11, 2006, by **DEWIT DAIRY**, an Idaho general partnership, **MELINDA DEWIT**, partner, and **TONY DEWIT**, partner ("Grantor"), whose address is 2010 Bob Barton Highway, Wendell, ID 83355, to **WELLS FARGO FINANCIAL LEASING, INC.**, an Iowa corporation ("Lender"), with the address listed above.

1. CONVEYANCE AND GRANT. For valuable consideration, Grantor mortgages, grants, bargains, sells, and conveys to Lender all of Grantor's right, title, and interest in and to the real property located in Gooding County, Idaho more particularly described in the attached *Exhibit A* (the "**Land**"), whether now owned or hereafter acquired, together with (1) all existing or subsequently erected or affixed buildings and other Improvements (as defined below) and fixtures; (2) all easements, rights of way, and appurtenances; (3) all Water Rights (defined below); (4) all agreements (including, without limitation, construction contracts) entered into between the Grantor and any contractor, architect, engineer, supplier, or other person with respect to the development of the Land or construction of improvements thereon, as such agreements may be amended or otherwise modified from time to time; (5) all agreements, leases, contracts, reports, surveys, plans, drawings, and governmental permits, licenses, and approvals pertaining to the development and operation of the Land and Grantor's business conducted thereon, as the same may be amended or otherwise modified from time to time, including but not limited to Milk Contracts (defined below); (6) all of Grantor's right, title, and interest in and to the Memorandum Agreement of Sale dated October 4, 2005, between Grantor and Stouder Holsteins, LLP, an Idaho limited liability partnership, William C. Stouder and Charlotte A. Stouder, husband and wife, and Bruce Stouder, Gary Stouder and Alan Stouder, partners; (7) all Irrigation Equipment (defined below), (8) all Dairy Equipment (defined below); and (9) all other

rights, royalties, and profits relating to the Land, including without limitation all minerals, oil, gas, geothermal and similar rights and matters (collectively, the **"Real Property"**).

Grantor also presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property (defined below) and all Rents (defined below) from the Property. In addition, Grantor grants Lender a security interest in the Rents and the Personal Property (defined below).

This Mortgage, including the assignment of rents and the security interest in the Rents and Personal Property, is given to secure (1) payment of the Indebtedness and (2) performance of each agreement and obligation of Grantor under the Note, the Related Documents, and this Mortgage (as such terms are defined below). Without limiting the foregoing or any other provision hereof, the Continuing Guaranties executed by Melinda DeWit and Tony DeWit, as individuals, and any separate environmental indemnity agreement executed by Mortgagors or any guarantor, are not secured by this Mortgage and shall survive any foreclosure hereof.

The Note and Indebtedness, and the payment terms, balance due and maturity date thereunder, may be indexed, adjusted, modified, renewed, extended, or renegotiated. The initial maturity date under the Note is January 11, 2021.

2. DEFINITIONS. The following words shall have the following meanings when used in this Mortgage. Terms describing collateral not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Uniform Commercial Code as in effect in the State of Idaho, as amended from time to time (**"Uniform Commercial Code"**). All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Dairy Equipment. The term "Dairy Equipment" means all equipment, machinery, appliances, tools and parts which are part of the dairy facilities and livestock facilities located on the Land and Improvements, including, without limitation, livestock, milking and other equipment, livestock watering equipment, milking systems, auto takeoffs, vacuum pumps, back flush, milk pumps, stall systems, feeders, conveyor systems, bulk tanks, milk keeper tanks, condensing units and tanks, refrigeration and cooling systems and tanks, wash vats, wash lines, hot water heaters, gates and panels of all kinds, air compressors, spray systems, centrifugal pumps, pressure tanks, stanchions, grain tanks, wastewater disposal pumps, waste separators, electric motors, generators, motors, centrifugal, turbine and all other kinds of pumps, silos, above ground fuel tanks, pitt ladders, boilers, rainbirds, jet washers, tube collars, well pumps, and other equipment, now owned or hereafter acquired, used with the dairy/livestock operations on the Land, including but not limited to those items listed on *Exhibit B* hereto, and all additions, replacements, substitutions and accessions thereof, and all accounts, general intangibles and proceeds arising therefrom.

Grantor. The word "Grantor" means **DEWIT DAIRY**, an Idaho general partnership, **MELINDA DEWIT**, partner, and **TONY DEWIT**, partner, and successors in interest.

Improvements. The word "Improvements" means and includes without limitation all existing and future improvements, buildings, structures, dairy facilities, barns, sheds, cattle holding structures and pens, fencing, mobile homes affixed on the Land, facilities, additions, replacements and other construction on the Land.

Indebtedness. The word "Indebtedness" means all principal and interest payable under the Note, all obligations under any loan agreement, guarantees, security agreement and other related agreements, and any amounts expended or advanced by Lender to discharge obligations of Grantor or expenses incurred by Lender to enforce obligations of Grantor under this Mortgage, together with interest on such amounts as provided in this Mortgage. The word "Indebtedness" also means each and every debt, liability, and obligation of every type and description that Grantor may now or at any time owe to the Lender, whether now existing or hereafter arising, direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several, or joint and several.

Irrigation Equipment. The words "Irrigation Equipment" shall mean all irrigation equipment, pumps, motors, engines, windmills, pivots, lines, piping and other ancillary irrigation or water pumping and transfer equipment and parts, now owned or hereafter acquired, located on or used with the Land and Improvements for irrigation or otherwise in connection with Grantor's dairy and livestock operations on the Land, including but not limited to the equipment listed in *Exhibit B* hereto, and all additions, replacements, substitutions and accessions thereof, and all accounts, general intangibles and proceeds arising therefrom.

Lender. The word "Lender" means Wells Fargo Financial Leasing, Inc., its successors and assigns.

Loan Documents. The word "Loan Documents" means the Note, this Mortgage, and all other documents, instruments and agreements executed in connection therewith.

Mortgage. The word "Mortgage" mean this Mortgage, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

Note. The word "Note" means the Commercial Mortgage Note dated January 11, 2006, in the principal amount of \$1,316,320.25, from Grantor to Lender, together with all renewals, extensions, modifications, refinancings, and substitutions for the Note.

Personal Property. The words "Personal Property" mean all of Borrower's personal property of every kind and nature, tangible and intangible, whether now owned or hereafter acquired or arising, that is located on, appurtenant to, used in connection with, arising from, or related to the Real Property or the Real Property's use, occupancy, construction, management, and operation, including, without limitation, all accounts, chattel paper, deposit accounts, documents, general intangibles (including, without limitation, patents, patent applications, trademarks, trademark applications, trade names, copyrights, copyright applications, software, service marks, and goodwill), goods, inventory, equipment, Irrigation Equipment, Dairy Equipment, fixtures, instruments, investment property, letter of credit rights, letters of credit, money, rents, revenues, issues, profits, Water Rights, geothermal rights, oil, gas,

or other minerals before extraction or as extracted, farm products, including but not limited to, milk and cream, along with all replacements, products, and proceeds of, and accessories, parts, additions, substitutions, improvements, and accessions to, any of the foregoing. Without limiting the foregoing description of the Personal Property, the Personal Property includes all goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property and embedded software therein, wherever situated, that are or are to be incorporated into, used in connection with, or appropriated for use on the Real Property; all contracts and agreements with milk purchasers, receivers, co-ops, and processors and payments owing to Grantor thereunder, including but not limited to any contract Grantor has with Magic Valley Milk Producers, Inc. for milk produced at Grantor's dairy operated on the Land (collectively, the "**Milk Contracts**"); all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Real Property; all deposits or other security now or hereafter made with or given to utility companies by Borrower with respect to the Real Property; all advance payments of insurance premiums made by Borrower with respect to the Real Property; and all plans, drawings and specifications relating to the Real Property. **Personal Property does not include crops, livestock, livestock feed, rolling stock or titled vehicles**, or other movable farm equipment that is not located on or used exclusively with the Land.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Real Property. The words "Real Property" mean the property, interests and rights described above in the "Conveyance and Grant" section.

Related Documents. The words "Related Documents" mean and include without limitation all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, declarations, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property and Grantor's business operated thereon, including but not limited to payments owing to Grantor from milk purchasers, receivers and processors.

Water Rights. The term "Water Rights" means all water, water rights of all types and nature, water claims, permits and licenses, water stock, watercourses, ditches and canals, and irrigation, ditch and canal district rights located on or appurtenant to the Land, including but not limited to water right No. 36-8661, all shares of stock owned by Grantor in the North Side Canal Company, Ltd., and all stock, membership and other interests of Grantor in utilities and ditch, canal and irrigation districts, including but not limited to the American Falls Reservoir District, the American Falls Area Water District (120), and the North Snake Ground Water District.

3. PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due, and shall strictly perform all of Grantor's obligations under the Note, this Mortgage, and the Related Documents.

4. POSSESSION AND MAINTENANCE OF THE PROPERTY.

4.1 Possession and Use. Until the occurrence of an Event of Default, Grantor may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

4.2 Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

4.1 Hazardous Materials. Grantor represents and warrants to Lender that: (1) during the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Materials (defined below) by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws (defined below), (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Materials on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Materials on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Materials. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

4.1.1 Without otherwise limiting Grantor's covenants as provided herein, Grantor shall not without Lender's prior written consent, remove or permit the removal of sand, gravel or topsoil, or engage in borrow pit operations, or use or permit the use of the Property as a land fill or dump, or store, burn or bury or permit the storage, burning or burying of any material or product which may result in contamination of the Property or the groundwater or which may require the issuance of a permit by the U.S. Environmental Protection Agency, the Idaho Department of Environmental Quality, the Idaho Department of Agriculture, or any other state or local government agency governing the issuance of hazardous or toxic waste permits, or request or permit a change in zoning or land use classification, or cut or remove or suffer the cutting or removal of any trees or timber from the Property.

4.1.2 At its sole cost and expense, Grantor shall comply with and shall cause all occupants of the Property to comply with all Environmental Laws with respect to the disposal of industrial refuse or waste (including dairy waste), and/or the discharge, processing, manufacture, generation, treatment, removal, transportation, storage and handling of Hazardous Materials, and pay immediately when due the cost of removal of any such wastes or substances from, and keep the Property free of any lien imposed pursuant to such laws, rules, regulations and orders.

4.1.3 Grantor shall not install or permit to be installed in or on the Property, friable asbestos or any substance containing asbestos and deemed hazardous by federal, state or local laws, rules, regulations or orders respecting such material. Grantor shall further not install or permit the installation of any machinery, equipment or fixtures containing polychlorinated biphenyls (PCBs) on or in the Property. With respect to any such material or materials currently present in or on the Property, Grantor shall promptly comply with all applicable Environmental Laws regarding the safe removal thereof, at Grantor's expense.

4.1.4 Grantor shall indemnify Lender and hold Lender harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Lender may incur as a result of or in connection with the assertion against Lender of any claim relating to the presence or removal of any Hazardous Materials, or compliance with any Environmental Law. No notice from any governmental body has ever been served upon Grantor or, to Grantor's knowledge after due inquiry, upon any prior owner of the Property, claiming a violation of or under any Environmental Law or concerning the environmental state, condition or quality of the Property, or the use thereof, or requiring or calling attention to the need for any work, repairs, construction, removal, cleanup, alterations, demolition, renovation or installation on, or in connection with, the Property in order to comply with any Environmental Law; and upon receipt of any such notice, Grantor shall take any and all steps, and shall perform any and all actions necessary or appropriate to comply with the same, at Grantor's expense. In the event Grantor fails to do so, Lender may declare this Mortgage to be in default.

4.2 Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance (including any odor nuisance) nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber,

minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

4.3 Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

4.4 Lender's Right to Enter. Lender and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

4.5 Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

4.6 Duty to Protect. Grantor agrees neither to abandon nor leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, that from the character and use of the Property are reasonably necessary to protect and preserve the Property.

5. DUE ON SALE - CONSENT BY LENDER. Lender may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. Lender shall not exercise this option if such exercise is prohibited by federal law or by Idaho law. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property.

6. TAXES AND LIENS.

6.1 Payment. Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of all liens having priority over or equal to the interest of Lender under this

Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph below.

6.2 Right To Contest. Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs, reasonable attorneys fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

6.3 Evidence of Payment. Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

7. PROPERTY DAMAGE INSURANCE.

7.1 Maintenance of Insurance. Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Grantor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Lender may request with Lender being named as additional insured in such liability insurance policies. Additionally, Grantor shall maintain such other insurance as Lender may reasonably require. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor shall obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the Indebtedness, up to the maximum policy limits set under the national Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance until the Indebtedness is paid in full.

7.2 Application of Proceeds. Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds

\$10,000. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at its election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds that have not been disbursed within 180 days after their receipt and that Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

7.3. Unexpired Insurance at Sale. Any unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the Property covered by this Mortgage at any foreclosure sale of such Property.

8. TAX AND INSURANCE RESERVES. Subject to any limitations set by applicable law, Lender may require Grantor to maintain with Lender reserves for payment of annual taxes, assessments, and insurance premiums, which reserves shall be created by advance payment or monthly payments of a sum estimated by Lender to be sufficient to produce amounts at least equal to the taxes, assessments, and insurance premiums to be paid. The reserve funds shall be held by Lender as a general deposit from Grantor, which Lender may satisfy by payment of the taxes, assessments, and insurance premiums required to be paid by Grantor as they become due. Lender shall have the right to draw upon the reserve funds to pay such items, and Lender shall not be required to determine the validity or accuracy of any item before paying it. Nothing in the Mortgage shall be construed as requiring Lender to advance other monies for such purposes, and Lender shall not incur any liability for anything it may do or omit to do with respect to the reserve account. Subject to any limitations set by applicable law, if the reserve funds disclose a shortage or deficiency, Grantor shall pay such shortage or deficiency as required by Lender. All amounts in the reserve account are hereby pledged to further secure the Indebtedness, and Lender is hereby authorized to withdraw and apply such amounts on the Indebtedness upon the occurrence of an Event of Default. Lender shall not be required to pay any interest or earnings on the reserve funds unless required by law or agreed to by Lender in writing. Lender does not hold the reserve funds in trust for Grantor, and Lender is not Grantor's agent for payment of the taxes and assessments required to be paid by Grantor.

9. EXPENDITURES BY LENDER. If any action or proceeding is commenced that would materially affect Lender's interests in the Property or if Grantor fails to comply with any provision of this Mortgage or any Related Document, Lender on Grantor's behalf may, but shall not be required to, take any action that Lender deems appropriate. Any amount that Lender expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenditures will become a part of the Indebtedness and, at Lender's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment that will be due and payable at the Note's maturity. This Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of the default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

10. WARRANTY AND DEFENSE OF TITLE.

10.1 Title. Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

10.2 Defense of Title. Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

10.3 Compliance With Laws. Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities, including but not limited to Environmental Laws.

11. CONDEMNATION.

11.1 Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

11.2 Proceedings. If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments as may be requested by it from time to time to permit such participation.

12. IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.

12.1 Current Taxes, Fees and Charges. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

12.2 Taxes. The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Grantor that Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

12.3 Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

13. SECURITY AGREEMENT; FINANCING STATEMENTS.

13.1. Security Agreement. This instrument shall constitute a security agreement to the extent any of the Property constitutes fixtures or other personal property, and Grantor hereby grants to Lender a security interest in such Property, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

13.2 Security Interest. Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue perfection of Lender's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file such financing statements and other documents, including but not limited to filing executed counterparts, copies or reproductions of this Mortgage, as a financing statement or other evidence of Lender's security interests and mortgage liens in and to the Property as Lender deems necessary to perfect and maintain perfection of Lender's liens and security interests, and Grantor hereby appoints Lender as Grantor's attorney-in-fact, which appointment is coupled

with an interest, for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in this paragraph. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing its security interests and liens. Upon default, Grantor shall assemble the Personal Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender. This Mortgage shall operate as and constitute a financing statement filed as a fixture filing, covering any of the Property that now is or later becomes fixtures attached to the Real Property or the Improvements.

13.3 Addresses. The mailing addresses of Grantor (debtor) and Lender (secured party), from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Mortgage.

14. HAZARDOUS MATERIALS AND WASTE.

14.1 Grantor at all times shall keep the Property and surface and ground waters of the Property free of Hazardous Materials (as defined below). Grantor shall not and shall not knowingly permit its tenants or any third party requiring the consent of Grantor to enter the Property, to use, generate, manufacture, treat, store, release, threaten release, or dispose of Hazardous Materials in, on, or about the Property or surface or ground water of or near the Property in violation of any federal, regional, state, or local law (including but not limited to the laws referenced below and any federal, state or local law, regulation or ordinance regulating dairies or confined animal facilities), decision, statute, rule, ordinance or regulation currently in existence or hereinafter enacted or rendered (collectively the "Environmental Laws"). Grantor shall give Lender prompt written notice of any claim by any person, entity, or governmental agency that a significant release or disposal of Hazardous Materials has occurred in, on, or under the Property in excess of legal limits. Grantor, through its professional engineers and at its cost, shall promptly and thoroughly investigate suspected Hazardous Materials contamination of the Property. Grantor shall forthwith remove, repair, clean up, and/or detoxify any Hazardous Materials found on the Property or in the ground water of the Property if such actions are required by Environmental Laws, and whether or not Grantor was responsible for the existence of the Hazardous Materials in, on or about the Property or the ground water of the Property. Hazardous Materials shall include but not be limited to substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," "pollutants," or "deleterious materials" or that are otherwise regulated by The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, by the Superfund Amendments and Reauthorization Act of 1986, The Hazardous Materials Transportation Act of 1994, The Resource Conservation and Recovery Act of 1976, as amended by The Used Oils Recycling Act of 1980, The Solid Waste Disposal Act amendment of 1984, The Toxic Substances Control Act, The Clean Air Act, The Clean Water Act, Idaho Environmental Protection and Health Act (Idaho Code §§ 39-101 to 39-130), Idaho Radiation and Nuclear Material Act (Idaho Code §§ 39-3001 to 39-3030), Idaho Water Quality Act (Idaho Code §§ 39-3601 to 39-3639), Idaho Hazardous Waste Management Act (Idaho Code §§ 39-4401 to 39-4432), Idaho Hazardous Substance Emergency Response Act (Idaho Code §§ 39-7101 to 39-7115), Idaho Petroleum Clean Water Trust Fund Act (Idaho Code §§ 41-4901 to 41-4948), Idaho Land Reclamation Act (Idaho Code

§§ 39-7201 to 39-7210), Idaho Solid Waste Facilities Act (Idaho Code §§ 39-7401 to 39-7420), Idaho Sale and Disposal of Batteries Act (Idaho Code §§ 39-7001 to 39-7004), Idaho PCB Waste Disposal Act (Idaho Code §§ 39-6201 to 39-6216), or any other Environmental Laws. Hazardous Materials for purposes of this Mortgage shall include animal wastes regulated by Environmental Laws governing dairies and confined animal facilities to the extent such wastes are not stored, managed, transported or disposed of by Grantor other than in strict compliance with an approved Nutrient Management Plan and other requirements imposed by Environmental Laws regulating dairies or confined animal facilities, *provided that* all provisions hereunder providing for remediation, cost reimbursement and indemnification of Lender in connection with Hazardous Materials shall apply to animal wastes notwithstanding Grantor's compliance with an approved Nutrient Management Plan or other Environmental Laws pertaining to dairies or confined animal facilities. Hazardous Materials shall not include small quantities of paints, solvents, lubricants or cleaning materials used in the maintenance or operation of the Property. In addition, Grantor shall not put any underground storage tanks on the Real Property.

14.2 Grantor shall indemnify Lender and hold Lender harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against Lender for, with respect to, or as a direct or indirect result of, the presence in, on, or under, or the escape, seepage, leakage, spillage, discharge, emission, or release from, the Property of any Hazardous Materials (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws), regardless of the source of origination and whether or not caused by, or within the control of, Grantor.

14.3 Liability under this Section 14 and similar provisions in this Mortgage and the other Loan Documents concerning Hazardous Materials shall survive repayment of the Note and satisfaction of this Mortgage; provided, however, Grantor shall have no liability under this Section 14 regarding Hazardous Materials if the Property becomes contaminated subsequent to Lender's acquisition of the Property by foreclosure, acceptance by Lender of a deed in lieu thereof, or subsequent to any transfer of ownership of the Property that was approved or authorized by Lender in writing, pursuant to this Mortgage, provided that such transferee assumes in writing all of the obligations of Grantor under the Loan Documents with respect to Hazardous Materials. The burden of proof under this section with regard to establishing the date upon which any Hazardous Material was placed or appeared in, on, or under the Property shall be upon Grantor.

15. FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

15.1 Further Assurances. At any time, and from time to time, upon request of Lender, Grantor shall take such action and/or make, execute and deliver, or shall cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve

(a) the obligations of Grantor under the Note, this Mortgage, and the Related Documents, and (b) the Property and the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or agreed to the contrary by Lender in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

15.2 Attorney-in-Fact. If Grantor fails to abide by its covenants under this Mortgage to maintain insurance on the Property and pay all taxes and assessments as they become due or fails to take action as required to preserve, perfect and maintain the perfection and priority of Lender's liens on and security interests in the Property, Lender may take such action as Lender deems appropriate to accomplish such requirements for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor irrevocably appoints Lender as Grantor's attorney-in-fact, which appointment is irrevocable and is coupled with an interest, for the making, executing, delivering, filing, recording, and doing taking all other actions as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in this Section. All costs and expenses incurred by Lender in exercising its rights hereunder shall be and are part of the Obligations secured by this Mortgage.

16. FULL PERFORMANCE. If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor shall pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

17. DEFAULT.

17.1 Events of Default. Each of the following, at Lender's option, shall constitute an Event of Default under this Mortgage:

17.1.1 Payment Default. Grantor fails to make any payment when due under the Indebtedness.

17.1.2 Default on Other Payments. Grantor fails within the time required by this Mortgage to make any payment for taxes or any other payment necessary to prevent filing of or to effect discharge of any lien.

17.1.3 Insurance Default. Grantor fails to maintain or make payments on insurance coverage as required under this Mortgage.

17.1.4 Compliance Default. Grantor fails to comply with or to perform any other term, obligation, covenant or condition contained in this Mortgage, the Note or in any of the Related Documents or to comply with or to perform any term, obligation, covenant, or condition in any other agreement between Lender and Grantor.

17.1.5 Default in Favor of Third Parties. Grantor defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement, in favor of any other creditor or person that may materially affect any of

Grantor's property or Grantor's ability to repay the Note or perform Grantor's obligations under this Mortgage or any of the Related Documents.

17.1.6 False Statements. Any warranty, representation or statement made or furnished to Lender by or on behalf of Grantor under this Mortgage, the Note or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

17.1.7 Defective Collateralization. This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral documents to create a valid and perfected security interest or lien) at any time and for any reason.

17.1.8 Death/Dissolution or Insolvency. The death of either partner of Grantor, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

17.1.9 Foreclosure or Forfeiture. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method, by any creditor of Grantor or by any governmental agency against any property servicing the Indebtedness. This Event of Default shall not apply, however, if there is a good faith dispute by Grantor as to the validity or reasonableness of the claim that is the basis of the foreclosure or forfeiture proceeding, as long as Grantor gives Lender written notice of such claim and furnishes reserves or a surety bond for the claim satisfactory to Lender.

17.1.10 Execution; Attachment. Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

17.1.11 Change in Zoning or Public Restriction. Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented, that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Related Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed.

17.1.12 Default Under Other Lien Documents. A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property.

17.1.13 Judgment. Unless adequately covered by insurance in the opinion of Lender, the entry of a final judgment for the payment of money involving more than ten thousand dollars (\$10,000.00) against Grantor and the failure by Grantor to discharge the same, or cause it to be discharged, or bonded off to Lender's satisfaction, within thirty (30) days from the date of the order, decree or process under which or pursuant to which such judgment was entered.

17.1.14 Breach of Other Agreement. Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

17.2 Right to Cure. Grantor shall have a grace period of ten calendar (10) days to cure an Event of Default under Section 17.1.1 above. If any other Event of Default hereunder, except for defaults under Sections 17.1.3 and 17.1.6 for which there shall be no cure period, is curable and if Grantor has not been given a notice of a breach of the same provision of this Mortgage within the preceding twelve (12) months, it may be cured (and will not be deemed to be an Event of Default) if Grantor, after Lender sends written notice demanding cure of such failure: (a) cures the failure within twenty (20) days; or (b) if the cure requires more than twenty (20) days, immediately initiates steps sufficient to cure the failure and thereafter diligently continues and completes all reasonable and necessary steps sufficient to produce compliance as soon as reasonably practical. So long as Grantor is diligently working to cure a curable default, as provided in the preceding sentence, Lender agrees to forbear from initiating its remedies for such Event of Default until the cure period has expired, but in no event shall Lender be required to forbear from exercising its remedies for an Event of Default being cured pursuant to subsection (b) for longer than thirty calendar (30) days. The foregoing shall be subject to and shall not limit any right of Lender hereunder to cure a default or other failure of Grantor to act hereunder or under any other Loan Document on Grantor's behalf.

18. RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Lender, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

18.1 Accelerate Indebtedness. Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty that Grantor would be required to pay.

18.2 Foreclosure. With respect to all or any part of the Real Property, the Lender shall have the right to foreclose by judicial foreclosure in accordance with and to the full extent provided by applicable law.

18.3 UCC Remedies. With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

18.4 Collect Rents. Lender shall have the right, without notice to Grantor, to take possession of and manage the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's

demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

18.5 Appoint Receiver. Lender shall have the right to seek the appointment of a receiver to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

18.6 Tenancy at Sufferance. If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Lender.

18.7 Other Remedies. Lender shall have any other right or remedy provided in this Mortgage or the Note or by law.

18.8 Notice of Sale. Lender shall give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of Personal Property may be made in conjunction with any sale of the Real Property.

18.9 Sale of the Property. To the extent permitted by applicable law, Grantor hereby waives any and all rights to have the Property marshaled. In exercising its rights and remedies, the Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

18.10 Waiver; Election of Remedies. A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Lender to pursue any remedy provided in this Mortgage, the Note, in any Related Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Grantor under this Mortgage after failure of Grantor to perform shall not affect Lender's right to declare a default and to exercise any of its remedies.

18.11 Attorneys' Fees; Expenses. If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any

court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, appraisal fees, and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

19. NOTICES TO GRANTOR AND OTHER PARTIES. Any notice under this Mortgage shall be in writing, may be sent by telefacsimile (unless otherwise required by law), and shall be effective when actually delivered, or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the following addresses:

If to Grantor: Tony DeWit and Melinda DeWit
2010 Bob Barton Highway
Wendell, ID 83355
Fax: 208 536 6650

with copy to: Robert E. Williams
Fredericksen Williams Meservy & Lothspeich LLP
117 S. Adams St., Jerome, ID 83338
Fax: (208) 324-3135

If to Lender: Wells Fargo Financial Leasing, Inc.
5000 Brittonfield Parkway, Suite 900
Syracuse, New York 13057
Attn: Donna Melfi
Fax: 800-869-7889

Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien that has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address.

20. MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

20.1 Amendments. This Mortgage, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

20.2 Annual Reports. If the Property is used for purposes other than Grantor's residence, Grantor shall furnish to Lender, upon request, a certified statement of net operating income received from the Property during Grantor's previous fiscal year in such form and detail as Lender shall require. "Net operating income" shall mean all cash receipts from the Property less all cash expenditures made in connection with the operation of the Property.

20.3 Governing Law. This Mortgage has been delivered to Lender and accepted by Lender in the State of Idaho. This Mortgage shall be governed by and construed in accordance with the laws of the State of Idaho.

20.4 Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Gooding County, State of Idaho.

20.5 Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

20.6 Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

20.7 Multiple Parties. All obligations of Grantor under this Mortgage shall be joint and several, and all references to Grantor shall mean each and every Grantor.

20.8 Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

20.9 Non-Liability of Lender. The relationship between Grantor and Lender created by this Mortgage is strictly a debtor and creditor relationship and not fiduciary in nature, nor is the relationship to be construed as creating any partnership or joint venture between Lender and Grantor. Grantor is exercising Grantor's own judgment with respect to Grantor's business. All information supplied to Lender is for Lender's protection only and no other party is entitled to rely on such information. There is no duty for Lender to review, inspect, supervise or inform Grantor of any matter with respect to Grantor's business. Lender and Grantor intend that Lender may reasonably rely on all information supplied by Grantor to Lender, together with all written representations and warranties given by Grantor to Lender,

without investigation or confirmation by Lender and that any investigation or failure to investigate will not diminish Lender's right to so rely.

20.10 Sole Discretion of Lender. Whenever Lender's consent or approval is required under this Mortgage, the decision as to whether or not to consent or approve shall be in the sole and exclusive discretion of Lender and Lender's decision shall be final and conclusive.

20.11 Successors and Assigns. Subject to the limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the Indebtedness.

20.12 Time Is of the Essence. Time is of the essence in the performance of this Mortgage.

20.13 Waivers and Consents. Lender shall not be deemed to have waived any rights under this Mortgage (or under the Related Documents) unless such waiver is in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or any of Grantor's obligations as to any future transactions. Whenever consent by Lender is required in this Mortgage, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

20.14 Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Indebtedness is paid in full.

20.15 Waiver of Homestead Exemption. Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of Idaho as to all Indebtedness secured by this Mortgage.

EACH GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND EACH GRANTOR AGREES TO ITS TERMS.

GRANTOR:

DEWIT DAIRY, an Idaho general partnership

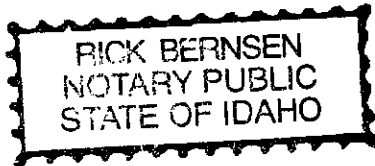

By: Melinda DeWit, general partner


By: Tony DeWit, general partner

STATE OF IDAHO)
) ss.
County of Jerome)

On this 11th day of January, 2006, before me, Rick Bernsen, a notary public in and for said State, personally appeared Melinda DeWit and Tony DeWit, known or identified to me to be general partners of DeWit Dairy, an Idaho general partnership, the partnership that executed the instrument or the persons who executed the instrument on behalf of said partnership, and acknowledged to me that said partnership 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.




NOTARY PUBLIC FOR IDAHO

Residing at Jerome

My Commission Expires 7/30/09

Exhibit A

PARCEL NO. 1:

TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 28: SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Section 33: NW $\frac{1}{4}$ NE $\frac{1}{4}$; EXCEPTING THEREFROM the following described parcel of land:

Beginning at the North One-Quarter section corner of Section 33, Township 8 South, Range 15 East, Boise Meridian, said corner marked by a $\frac{1}{2}$ " rebar;
Thence South 00°00'27" West along the West line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ for a distance of 412.83 feet to a $\frac{1}{4}$ " rebar which shall be THE POINT OF BEGINNING;
Thence North 89°30'58" East for a distance of 344.89 feet to a $\frac{1}{2}$ " rebar;
Thence South 00°00'27" West for a distance of 312.72 feet to a $\frac{1}{4}$ " rebar;
Thence South 89°30'58" West for a distance of 344.89 feet to a $\frac{1}{2}$ " rebar on the West line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Thence North 00°00'27" East along said line for a distance of 312.72 feet to THE POINT OF BEGINNING.

PARCEL NO. 2:

TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO

Section 33: NE $\frac{1}{4}$ NE $\frac{1}{4}$, EXCEPTING THEREFROM the following described parcel of land:

Commencing at the Northeast corner of Section 33;
Thence North 89°54'22" West, 377.00 feet along the Northerly boundary of Section 33 to THE TRUE POINT OF BEGINNING;
Thence South 0°58'58" West, 1089.00 feet;
Thence North 89°54'22" West, 400.00 feet;
Thence North 0°58'58" East, 1089.00 feet to the Northerly boundary of Section 33;
Thence South 89°54'22" East, 400.00 feet along the Northerly boundary of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, to THE TRUE POINT OF BEGINNING.

AND

Exhibit A

**TOWNSHIP 8 SOUTH, RANGE 15 EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO**

Section 33: That part of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, described as follows:

Commencing at the Northeast corner of Section 33;
Thence North 89°54'22" West, 377.00 feet along the Northerly boundary of Section 33,
to THE TRUE POINT OF BEGINNING;
Thence South 0°58'58" West, 1089.00 feet;
Thence North 89°54'22" West, 400.00 feet;
Thence North 0°58' 58" East, 1089.00 feet to the Northerly boundary of Section 33;
Thence South 89°54'22" East, 400.00 feet along the Northerly boundary of the
NE $\frac{1}{4}$ NE $\frac{1}{4}$, to THE TRUE POINT OF BEGINNING.

PARCEL NO. 3:

**TOWNSHIP 8 SOUTH, RANGE 15, EAST OF THE BOISE MERIDIAN,
GOODING COUNTY, IDAHO**

Section 34: A parcel of land located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, described as follows:

Commencing at the Northwest corner of said Section 34;
Thence South 00°02'00" East along the West boundary of said Section 34 for a distance
of 277.00 feet to THE TRUE POINT OF BEGINNING;
Thence South 89°52'00" East parallel with the North boundary of Section 34 for a
distance of 315.00 feet;
Thence South 00°02'00" East parallel with the West boundary of Section 34 for a
distance of 418.00 feet;
Thence North 89°52'00" West, measured (North 89°49' West recorded) parallel with the
North boundary of Section 34 for a distance of 315.00 feet to a point on the West
boundary of Section 34;
Thence North 00°02'00" West along the West boundary of Section 34 for a distance of
418.00 feet to THE TRUE POINT OF BEGINNING.

**SUBJECT TO a 25.0 foot wide county road easement along the West boundary of the
described parcel.**

Exhibit B

- 24 Beco Mega Flow Take Offs
- 12,000 Gallon Milk Silo
- 4,500 Gallon Milk Tank
- PRO Chiller
- 2 Air Compressors
- 3 Vacuum Pumps
- 2 Hot Water Heaters
- 7,000 Gallon Water Silo
- Caterpillar Diesel Generator
- 2 Reinke Pivots, Models 660, Serial Numbers 1193 C10141 and 1096-C13852 with Accompanying Pumps & Motors
- Baldor 15 hp Pump Model MP927 Serial No. B53799K11
- Lincoln 25 hp Pump Model SSD2625tjP61, Serial No. B51635
- Lagoon Pump and Screen Separator
- An older, single wide mobile home located on the real property above described, now being used as an office
- One-half (1/2) interest in a 12' x 80' certified scale