

314285- Mr. Bolin
RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:

Sanwa Bank California
Sacramento Agribusiness Office
601 "J" Street
Sacramento, CA 95814

Attn: Thomas D. Bolin
Vice President and Manager

129614

AGREEMENT TO FURTHER EXTEND PROMISSORY
NOTES, SECURE ADDITIONAL INDEBTEDNESS,
AND MODIFY DEED OF TRUST

THIS AGREEMENT is entered into as of this 23rd day of August, 1989 by and between SANWA BANK CALIFORNIA, successor in interest to Lloyds Bank California ("Bank"), and DANIEL H. RUSSELL (also known as Dan Russell) and ROBERTA A. RUSSELL (collectively "Russell").

RECITALS

A. On or about July 10, 1986 Russell executed and delivered to Bank a deed of trust of even date ("Deed of Trust"), which Deed of Trust secured indebtedness in the principal amount of Four Hundred Ninety-Nine Thousand Dollars (\$499,000).

B. The Deed of Trust encumbers certain real property described in the attached Exhibit "A" (the "Property") and was recorded on July 28, 1986, as File No. 103950 in Book 147 at page 009 in the Office of the County Recorder of the County of Eureka, State of Nevada.

C. The Deed of Trust also secures additional advances from Bank to Russell and each of the foregoing notes and any extensions, renewals, or modifications thereof were executed by Russell in favor of Bank and are secured by the Deed of Trust:

1. A Livestock Herd Note dated January 21, 1987 in the original principal sum of \$6,950,000, which note constituted a renewal of the April 1, 1986 note for such amount ("Herd Term Note"), under which note there is an outstanding principal balance, as of August 23, 1989, of \$3,000,000.00;

2. A Livestock Operating Note dated January 21, 1987 in the original principal sum of \$6,059,800, which note constituted a renewal of various obligations of Russell to Bank including the note for \$3,506,500 dated April 1, 1986 ("3/87 NRIC

Note"), under which note there is an outstanding principal balance, as of August 23, 1989, of \$3,683,767.22;

3. A July - October 1987 Livestock Operating Note dated September 9, 1987 in the original principal sum of \$2,238,600 ("10/87 NRLC Note"), under which note there is an outstanding principal balance, as of August 23, 1989, of \$1,472,392.70;

4. A May 1988 - August 1988 Livestock Operating Note dated August 9, 1988 in the original principal sum of \$2,836,600 ("9/88 NRLC Note"), under which note there is an outstanding principal balance, as of August 23, 1989, of \$1,717,197.57;

5. A September 1988 - April 1989 Livestock Operating Note dated January 23, 1989, in the original principal sum of \$4,879,400 ("5/89 NRLC Note"), under which note there is an outstanding principal balance, as of August 23, 1989, of \$4,035,184.55;

6. A Term Note dated January 23, 1989 in the original principal sum of \$1,500,000 ("Assign T/D Term Note") under which note there is an outstanding principal balance, as of August 23, 1989 of \$1,500,000.00;

7. A Term Loan Agreement, including note, dated April 28, 1989 in the original principal balance of \$223,000 ("Equipment Term Note"), under which note there is an outstanding principal, as of August 23, 1989 of \$223,000.00; and

8. A Promissory Note dated July 3, 1989 in the original principal amount of \$2,100,000 executed by Borrower and Bank ("Temporary Note"), which note will be paid off by a Promissory Note dated August 23, 1989 in the original principal amount of \$3,360,800 ("8/89 NRLC Note").

D. Assuming the pay off of the Temporary Note, the aggregate principal balance of the Herd Term Note, the 3/87 NRLC Note, the 10/87 NRLC Note, 9/88 NRLC Note, the 5/89 NRLC Note, the Assign T/D Term Note, the Equipment Term Note, and the 8/89 NRLC Note ("Notes") as of August 23, 1989, is \$18,992,342.04.

E. By a certain "Agreement to Extend and Modify Promissory Notes and Modify Deed of Trust" dated as of June 16, 1987 (the "First Modification Agreement"), among other things, the maturity dates of the Herd Term Note and the 3/87 NRLC Note were extended to June 30, 1987.

F. By a certain "Agreement to Further Extend Promissory Notes, Secure Additional Indebtedness, and Modify Deed of Trust" dated as of September 9, 1987 (the "Second Modification Agreement"), among other things, the indebtedness under the 10/87 NRLC Note represented, constituted and was additional indebtedness under, pursuant to and secured by the Deed of Trust,

and the maturity dates of the Herd Term Note and the 3/87 NRLC Note were extended to October 31, 1987.

G. By a certain Agreement to Further Extend Promissory Notes, Secure Additional Indebtedness and Modify Deed of Trust dated as of April 18, 1988 (the "Third Modification Agreement"), among other things, the maturity dates of the Herd Term Note, the 3/87 NRLC Note and the 10/87 NRLC Note were extended to May 1, 1988;

H. By a certain "Agreement to Further Extend Promissory Notes, Secure Additional Indebtedness and Modify Deed of Trust" dated as of August 9, 1988 (the "Fourth Modification Agreement"), among other things, the maturity dates of the Herd Term Note, the 3/87 NRLC Note and the 10/87 NRLC Note were extended to September 1, 1988;

I. By a certain "Agreement to Further Extend Promissory Notes, Secure Additional Indebtedness and Modify Deed of Trust" dated as of January 23, 1989 (the "Fifth Modification Agreement") among other things, the maturity dates of the Herd Term Note, the 3/87 NRLC Note, the 10/87 NRLC Note and the 9/88 NRLC Note were extended to May 1, 1989, and the indebtedness under the 5/89 NRLC Note and the Assign T/D Term Note represented, constituted and was additional indebtedness under, pursuant to and secured by the Deed of Trust;

J. By a certain "Addendum to Credit Agreement" dated as of March 31, 1989 ("Sixth Modification Agreement"), among other things, the maturity date of the Assign T/D Term Note was extended to August 15, 1991.

NOW, THEREFORE, Bank and Russell agree as follows:

AGREEMENT

1. Extension of Maturity Dates on Notes. The maturity dates of the Herd Term Note, the 3/87 NRLC Note, the 10/87 NRLC Note, the 9/88 NRLC Note and the 5/89 NRLC Note, and each of them, are each further extended to September 4, 1989, on which date the total outstanding principal balance under each of such notes, together with accrued and unpaid interest thereon, shall be due and payable in full.

2. Modifications to Deed of Trust. The Deed of Trust is modified to include the following language:

A. All Indebtedness Secured by Deed of Trust. The Deed of Trust shall secure, in such order of priority as Beneficiary in its absolute discretion may determine, due and prompt payment of an indebtedness in the aggregate principal sum of \$18,992,342.04 as evidenced by the following promissory notes and any and all amendments, modifications, renewals, or extensions of such notes, together with the payment of interest on such indebtedness and the payment of all other sums according to the terms of such notes:

(i) a certain promissory note dated January 21, 1987 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$6,950,000.

(ii) a certain promissory note dated January 21, 1987 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$6,059,800.

(iii) a certain promissory note dated September 9, 1987 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$2,238,600.

(iv) a certain promissory note dated August 9, 1988 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$2,836,600.

(v) a certain promissory note dated January 23, 1989 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$4,879,400.

(vi) a certain promissory note dated January 23, 1989 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$1,500,000.

(vii) a certain Term Loan Agreement, with Note included, dated April 23, 1989 executed by Trustor and payable to Beneficiary in the original principal sum of \$223,000.

(viii) a certain promissory note dated August 23, 1989 executed by Trustor and payable to Beneficiary or order in the original principal sum of \$3,360,800.

B. Granting Clause. In granting rights to the Trustee under the granting clause of this Deed of Trust, the Trustor also grants, transfers and conveys to Trustee:

(i) Any and all property which is at the time of the execution of this Deed of Trust attached in any manner whatsoever to the Property more particularly described in Exhibit "A" to the Deed of Trust, or which is used in the operating of the Property for the purposes for which the Property is improved, including but not limited to all tanks, windmills, pumping equipment, pumps, well equipment, well casing, water distribution plants, and irrigation equipment;

(ii) All water and water rights, including riparian, appropriative, prescriptive, overlying rights, rights evidenced by mutual water company stock, and all dams, ditches, canals, pipe lines, reservoirs and all other means for the diversion or use of waters appurtenant to the Property or any part thereof, or used or enjoyed in connection therewith, including use for irrigation, domestic, municipal, recreational, fish and wildlife and stock-watering purposes, irrigation and drainage rights of every kind and character, however manifested or

evidenced, and all buildings and improvements thereon or that may be placed thereon;

(iii) all grazing rights, permits, leases or allotments issued in connection with the Property by the Bureau of Land Management, U.S. Forest Service, lessors, or any other person or agency.

(iv) the above rights shall be conclusively deemed to be accessions to and a part of the Property.

C. Maintenance of the Property. In addition to Trustor's other maintenance obligations with respect to the Property, Trustor shall cultivate, irrigate, fertilize, fumigate, spray, prune and do any other acts which from the character or use of the Property may be reasonably necessary, in accordance with the best standards practiced by others engaged in similar operations and, if the Property is agricultural property, Trustor shall farm and harvest, and prepare for farming and harvesting, the Property in an approved and husbandlike manner.

D. Assignment of Rents. In addition to the rents, issues and profits assigned by Trustor to Beneficiary under this Deed of Trust, Trustor specifically assigns to Beneficiary all rents, revenues, royalties, rights and benefits accruing to Trustor under all present and future oil, gas, and mining leases and under all present and future grazing leases on the Property.

E. Performance of Obligations by Beneficiary or Trustee. Should Trustor fail to make any payment, perform any obligation or do any act as set forth in this Deed of Trust, then in addition to the other rights of Beneficiary and Trustee set forth in this Deed of Trust, Beneficiary and/or Trustee are authorized to enter upon the Property and, if agricultural property, prepare for harvest, harvest, store, remove and sell any crops that may be growing on the Property and apply the proceeds thereof to the indebtedness secured by this Deed of Trust. Beneficiary and/or Trustee may employ Trustor's employees and use Trustor's equipment at the Property in accomplishing the foregoing. Trustor agrees that any action by Beneficiary or Trustee described above shall be deemed to be authorized by Trustor and shall not be a breach of the peace, provided Beneficiary and/or Trustee makes reasonable effort to safeguard all of the Trustor's Property.

F. Additional Advances. This Deed of Trust, and all addenda, extensions and modifications thereto are governed by Nevada Revised Statutes 106.300 to 106.400. This Deed of Trust secures future advances from Beneficiary to Trustor. The maximum amount of future advances of principal to be secured by this Deed of Trust, over the total principal indebtedness of \$18,992,342.04, is \$10,000,000.00. Any future advances from Beneficiary to Trustor are at the option of Beneficiary and Beneficiary is in no way obligated by this provision to make any such advances.

G. Incorporation of Fictitious Deed of Trust. The reference in the Deed of Trust to the Fictitious Deeds of Trust

recorded in various counties in California is deleted. The following language is added in its place:

To protect the security of this Deed of Trust, and with respect to the Property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions contained in subdivision B of the fictitious Deed of Trust recorded at Book 22 Off. Rec., Page 138, as Document 45941, in the Office of the County Recorder for the County of Eureka, State of Nevada, on January 30, 1968, shall inure to and bind the parties hereto with respect to the Property described above. Said agreements, terms and provisions contained in said subdivision A and B, are by this reference incorporated and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein, and Beneficiary may charge for a statement regarding the obligation secured hereby, provided the charge does not exceed a reasonable amount.

3. No Novation. This Agreement is not a novation and is only an extension of the maturity dates of the Herd Term Note, the 3/87 NRLC Note, the 10/87 NRLC Note, the 9/88 NRLC Note, and the 5/89 NRLC Note as provided herein and a modification of the Deed of Trust. Except as provided in this Agreement, all other terms and conditions of such notes and the Deed of Trust shall remain in full force and effect.

4. Continuing Priority. Russell and Bank hereby further agree that the Deed of Trust as modified and amended hereby shall have the same effect in all respects, including priority, as if it had contained the above referenced principal sum and additional language. Russell and Bank also hereby agree that this modification shall not prejudice any present or future rights, remedies, benefits and powers belonging or accruing to Bank under the terms of the Deed of Trust.

5. Acceptance by Russell. Daniel H. Russell (also known as Dan Russell) and Roberta A. Russell accept this Agreement

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and, in consideration thereof, jointly and severally agree to pay the indebtedness evidenced by the Notes referenced herein according to the respective terms of the Notes and this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first hereinabove written.

BANK:

SANWA BANK CALIFORNIA

By: Thomas A. Bl.
Its: Vice Pres. & Manager

RUSSELL:

Daniel H. Russell
DANIEL H. RUSSELL
(also known as Dan Russell)

Roberta A. Russell
ROBERTA A. RUSSELL

SEB90088

STATE OF California)
COUNTY OF Sacramento) ss.

On this 23rd day of August, 1989, before me, a Notary Public in and for said County and State, duly commissioned and sworn, personally appeared Thomas D. Bolin * * * * *, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument as a Vice President on behalf of the corporation therein named, and acknowledged to me that the corporation executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this Certificate first above written.



Rita M. Suprenant
Notary Public

State of California

My Commission Expires: 8-23-91

STATE OF California)
COUNTY OF Sacramento) ss.

On this 23rd day of August, in the year 1989, before me, a Notary Public, for the State of California, duly commissioned and sworn, personally appeared Daniel H. Russell and Roberta A. Russell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that they executed it.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the * * * * * County of Sacramento on the date set forth above in this certificate.



Rita M. Suprenant
Notary Public,

State of California

My Commission Expires: 8-23-91

EXHIBIT A

All that real property situated in the County of Eureka, State of Nevada described as follows:

PARCEL FIVE:

TOWNSHIP 21 NORTH, RANGE 53 EAST, M.D.B. & M.

Section 20: West 1/2

EXCEPTING THEREFROM that portion thereof conveyed to CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS, A UTAH CORPORATION SOLE, in Deed recorded September 7, 1984 in Book 127, page 467 as Document No. 95671, Official Records, which is described as follows:

Commencing at the West 1/4 corner of said Section 20, thence North 0°00'00" East 1767.82 feet along the West line of said Section 20 to Corner No. 1, the true point of beginning; thence continuing North 0°00'00" East 840.23 feet along the West line of said Section 20 to corner No. 2, being on the Southerly Right of Way line of 7th Street; thence South 89°59'49" East 840.95 feet along the said Southerly right of way line of 7th Street to Corner No. 3; thence from a tangent bearing South 70°38'55" West on a curve to the left, with a radius of 1380.00 feet; through a central angle of 51°05'48", for an arc length of 1230.69 feet to Corner No. 1, the point of beginning, now known as Parcel One and Two of the certain Parcel Map recorded June 4, 1984, under Document No. 93464, Eureka County, Nevada records.

Section 29: North 1/2

PARCEL SIX:

TOWNSHIP 21 NORTH, RANGE 53 EAST, M.D.B. & M.

Section 20: East 1/2

EXCEPTING THEREFROM, all potassium, oil and gas as reserved in Patent dated March 13, 1963, executed by UNITED STATES OF AMERICA to JAMES J. KAHLE recorded May 3, 1963 in Book 26 of Deeds at page 426, Eureka County, Nevada records.

PARCEL SEVEN:

TOWNSHIP 21 NORTH, RANGE 53 EAST, M.D.B. & M.

Section 22: East 1/2
Section 27: East 1/2

EXCEPTING THEREFROM, all the oil, gas, potash and sodium as reserved in Patents executed by UNITED STATES OF AMERICA to THOMAS H. GALLAGHER and JOHN B. BONDS, recorded April 9, 1964 in Book 3 of Official Records at page 555 and December 30, 1964 in Book 6 of Official Records at page 348, Eureka County, Nevada.

PARCEL EIGHT:

TOWNSHIP 21 NORTH, RANGE 53 EAST, M.D.B. & M.

Section 28: All

EXCEPTING THEREFROM all the oil and gas as reserved in Patents executed by UNITED STATES OF AMERICA to DOROTHY S. GALLAGHER and MILLIE S. SEWELL, recorded December 30, 1964 in Book 6 of Official Records at pages 349 and 350, Eureka County, Nevada records.

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BOOK 202 PAGE 585

First American Title
SEP 19 P. 1:40

OFFICIAL RECORDS
EUREKA COUNTY, NEVADA
P.M. REBALEATI, RECORDER
FILE NO. FEE \$14

1229617

BOOK 202 PAGE 594