

1 MR. HURLEY: No. And I didn't get that in the document.

2 Q (BY MR. HURLEY) But the land referred to here in the loan  
3 agreement is your 2230 acres approximately; is that  
4 correct?

5 A Yes.

6 Q And that's the same land that your father Kenneth Long  
7 owned?

8 A Yes.

9 Q And this 2230 acres was transferred to the Bank by deed?

10 A Yes.

11 Q And that's the land that's referred to as Exhibit A there  
12 in the second paragraph of Exhibit 6 --

13 A Yes, it is.

14 Q -- in the loan agreement? And then in -- in consideration  
15 of the sale proceeds in the loan agreement then in  
16 paragraph one, you get credit back by the Bank for that  
17 land of 468,000 as shown there?

18 A Yes.

19 Q And then it says credit for house. What was that for?

20 A That was Dad's house in town.

21 Q And the Bank --

22 A He moved to town in his later years.

23 Q Okay. And then after he died, that was deeded to the Bank  
24 as well?

25 A Yes.

1 Q And you were given credit here of \$10,000?

2 A Yes.

3 Q So then that was the figure that you were referring to  
4 earlier here, your total credit was \$478,000?

5 A Yes.

6 Q And then in the loan agreement it's itemized there in the  
7 next list of items and figures what is made up as the  
8 credit there of \$478,000?

9 A Yes.

10 Q That's what you were talking to counsel about?

11 A Yes.

12 Q So in return for the Bank getting the deed, then the  
13 Longs' debts and obligations to the Bank were reduced by  
14 478,000?

15 A Yes.

16 Q Okay. And that was one of the benefits to the Longs in  
17 this plan, correct?

18 A Correct.

19 Q And also going to the next paragraph it begins, "The Bank  
20 of Hoven will request." Do you see that?

21 A Yes.

22 Q And what has the Bank of Hoven agreed to request in your  
23 understanding of this agreement?

24 A Well, they're supposed to request a guarantee increase  
25 from 84 to 90 percent.

1 Q And who did --

2 A And reschedule it over 20 years.

3 Q Who did they request that change from?

4 A The BIA.

5 Q So the Bank of Hoven agrees to request from the BIA an  
6 increase in the guarantees by the BIA of your remaining  
7 loans at the Bank of Hoven, 84 percent. Is that what it  
8 was at the time?

9 A Yes.

10 Q And they are to request an increase up to 90 percent?

11 A Yes.

12 Q And the Bank of Hoven agreed to do that?

13 A Yes.

14 Q And then they also -- the Bank agreed to reschedule note  
15 98181, principal, interest, and late charges, correct?

16 A Yes.

17 Q And is that something the Bank agreed to do?

18 A Yes, they did.

19 Q And the primary security would be cows, bulls, and  
20 machinery on that note?

21 A Yes.

22 Q And by "primary security" would that be like a first lien?

23 A Yes.

24 Q And so now so the jury can follow, we've got down that  
25 far. And then again beginning right after the word

1 "machinery," it states, "The Bank of Hoven will also  
2 request." Do you see that?

3 A Yes.

4 Q And what was the Bank of Hoven agreeing to request there?

5 A 90 percent BIA guarantee for a \$70,000 operating loan.

6 Q Okay. And it says a 70,000 annual operating loan. Do you  
7 see that?

8 A Yes.

9 Q Now, was that a new operating loan for the Longs?

10 A Yes.

11 Q That was not an existing loan?

12 A No.

13 Q And did you negotiate and bargain for that?

14 A No. They proposed it to me, this whole contract. ✓

15 Q And what is meant by the term "operating loan"? What does  
16 that mean?

17 A Well, you have to have money to put up hay and all of the  
18 regular things that you do on a farm and ranch, put in  
19 your crops and stuff. You've got to have operating or you  
20 just can't be in business, same as any other business.

21 Q So out of that operating loan, out of the proceeds from  
22 that loan, does that pay for fuel?

23 A Yes.

24 Q And does that pay for repairs on machinery?

25 A Yes.

1 Q Does it pay for living expenses?

2 A Yes.

3 Q Does it pay for feed for the cattle?

4 A Yes.

5 Q And it also pays for living expenses for your family?

6 A Yes.

7 Q And would you explain to the Court and jury -- maybe  
8 everybody is not familiar with farming and ranching. Some  
9 of you are; maybe some of us aren't. How does that  
10 operating loan then get paid back to the Bank?

11 A Through -- through the sales of calves and crops.

12 Q And ordinarily, does that occur monthly? Do you have  
13 monthly income, annual income? How does that work?

14 A Not on your farming and ranching. This is an annual deal.  
15 I guess I'm on annual but -- mostly annual. Once a year  
16 when you sell the calves or the grain, you pay back your  
17 loans.

18 Q If you borrow money in an operating loan, until you have  
19 an opportunity to sell calves and then you have income?

20 A Yes.

21 Q Or sell grain and then you have income?

22 A Yes.

23 Q And from that income then you pay the operating loan back?

24 A Yes.

25 Q And what does the word "annual" mean, annual operating

1 loan?

2 A Well, you get that every year. It's got -- according to  
3 this one, it's got to be paid down every year to a dollar  
4 and then you get next year's operating loan.

5 Q Now, the next sentence right after the word "operating  
6 loan" says, "This note will be secured by a second lien on  
7 calves, yearlings, and a first lien on crops." Was that  
8 your understanding of how this new operating loan was  
9 going to be secured for the Bank?

10 A Yes.

11 Q And what does that mean to you?

12 A It means when you sell calves or yearlings or crops you  
13 pay your operating loan.

14 Q And that's what a lien means; you've got to pay that money  
15 back to the Bank from the income from cattle sales or crop  
16 sales?

17 A Yes.

18 Q And like you pointed down -- pointed out then it says it  
19 will be paid down to \$1.00 annually. And if that happens,  
20 then what?

21 A Then I get next year's operating loan of 70,000.

22 Q And then that would be available to you annually?

23 A Yes.

24 Q As long as it was paid down to \$1.00?

25 A Yes.

1 Q In this agreement, was that new operating loan important  
2 to you and your family?

3 A Oh, yes. If it wouldn't have been for this, I -- I  
4 couldn't have signed it because I wouldn't have anything  
5 to operate on. If it wasn't for this part of the  
6 contract, it was no good.

7 Q Did you have to have an operating loan in order to make  
8 this plan work?

9 A Yes.

10 Q And by "operating loan," I mean new money available to you  
11 to do what you have to do on the farm?

12 A Yes.

13 Q And what would happen if you entered into this plan and  
14 you did not have operating money available to you to  
15 operate your farm?

16 A I would just be done. I couldn't -- I couldn't operate.

17 Q Okay. If you would then, go to the last paragraph --  
18 let's see.

19 MR. HURLEY: Let's see. On this board it's the next paragraph  
20 because you have two pages on one board, Your Honor.

21 THE COURT: Does it start with, "If the BIA"?

22 MR. HURLEY: Yes. It starts with, "If the BIA guarantee  
23 requests are approved."

24 Q (BY MR. HURLEY) And what was your understanding of that  
25 paragraph of the agreement, the loan agreement?

1 A Well, that \$53,500 was to finish paying off that one  
2 \$17,000 note, and then the rest of it was to buy 110 head  
3 of calves to be raised with the ones that I already had.  
4 That would increase my income and help me buy back the  
5 place.

6 Q And under this -- under that paragraph, how much new money  
7 would be available to you to buy those 110 head of calves?

8 A 37,500.

9 Q And would that be sufficient at that time to purchase 110  
10 calves?

11 A Yes, it would.

12 Q And did you have the rough feed, hay, and other feeds to  
13 take care of an additional 110 calves?

14 A Yes, I did.

15 Q And how many calves of your own did you have?

16 A About 200 -- approximately 280, 260. It depends on  
17 what -- what I was going to keep for replacement heifers.

18 Q And by "calves of your own," what I mean there is did you  
19 raise those calves?

20 A Yes.

21 Q And did you have cows that produced calves every year?

22 A Yes.

23 Q And approximately how many cows did you have at that time?

24 A About 345 cows.

25 Q Okay. And they produced those calves, 370 or 80 calves?



1 A Yes.

2 Q And then along with those calves you were going to buy 110  
3 head of calves to put with your calves and increase your  
4 number of calves that you're -- you're carrying through  
5 the year?

6 A Yes.

7 Q And how --

8 MR. VON WALD: I'm going to interrupt one more time, Your Honor.  
9 And I'm -- I'm allowing counsel to ask leading questions,  
10 but --

11 THE COURT: All right. Let's get Ronnie to tell what he was  
12 going to do. Okay.

13 MR. HURLEY: Okay.

14 THE COURT: Okay.

15 Q (BY MR. HURLEY) And what were you going to do?

16 MR. VON WALD: And the question I have is I think, Jim, you said  
17 345 cows produced 370 calves.

18 MR. HURLEY: Excuse me.

19 Q (BY MR. HURLEY) 270 I think you said, didn't you?

20 THE WITNESS: Is that what I said, too? 370?

21 MR. VON WALD: You said "yes," too, in response, but . . .

22 MR. HURLEY: Oh, my mistake, my apologies. Let me start --

23 THE COURT: So how many do those 340 head produce, Ronnie?

24 THE WITNESS: Well, I had 3 -- 280 calves.

25 THE COURT: Okay. All right. That's clarified. Is that

1 clarified to the jurors? All right. Go ahead, Jim.

2 MR. HURLEY: Okay.

3 Q (BY MR. HURLEY) And what were you going to do then with  
4 these 110 calves that you were going to purchase with this  
5 new money on this new cattle purchase loan?

6 A I was going to raise them with my own calves and run them  
7 every year.

8 Q And was this provision in the loan agreement important to  
9 you?

10 A Yes.

11 Q And why was that?

12 A Well, it would increase my income. I had the feed, and I  
13 had the extra pasture so it wouldn't have -- the overhead  
14 on it wouldn't have been that much, and it would have  
15 increased my income for next (INAUDIBLE).

16 Q And again, was this part of the proposal made by the Bank  
17 to you?

18 A Yes.

19 THE COURT: This would be a good time. It's about 12. Why  
20 don't we take our lunch break, Jurors. Again, don't talk  
21 about this matter amongst yourselves or with anyone else.  
22 Where can they eat lunch at, Dale?

23 THE CLERK: (INAUDIBLE).

24 THE COURT: I think we will have an hour and 15 minute lunch  
25 break, which means you're not required to stay here. If

1 you need to conduct a few -- a little business, just make  
2 sure that you're back here by 1:15. We do have a lunch  
3 for you so you -- so we'll take our lunch break at this  
4 time, Jurors.

5 MR. HURLEY: Can we leave our stuff here?

6 THE COURT: Yes. Just leave it here. Actually, you may want

7 --

8 (TAPE TURNED OFF.)

9 (RECESS TAKEN.)

10 (AT THIS POINT ON DUPLICATE #3  
11 TAPE #1, A HEARING IS RECORDED IN  
12 THE MATTER OF SHOOTER V. SHOOTER  
13 AND WAS NOT TRANSCRIBED AS PART  
14 OF THIS APPEAL TRANSCRIPT, AND  
15 PLAYS TO THE END OF DUPLICATE #3  
16 TAPE #1.)

17 (THE FOLLOWING PROCEEDINGS TOOK  
18 PLACE ON DUPLICATE #3 TAPE #2:)

19 (LAUGHTER).

20 THE COURT: We didn't feed you enough here, huh?

21 JUROR: No. (INAUDIBLE).

22 THE COURT: All right. Let's go on the record. On the  
23 record -- back on the record, Long Family Land and Cattle  
24 versus Bank of Hoven. The jurors have reported back from  
25 lunch. It's about -- well, I -- what is it, 1:15?

1 MR. HURLEY: Yes.

2 THE COURT: Okay. Ronnie Long is on the stand being examined  
3 by his counsel. Ronnie, you are still under oath, so. . .

4 THE WITNESS: Okay.

5 THE COURT: Go ahead.

6 MR. HURLEY: Thank you.

7 Q (BY MR. HURLEY) Ronnie, to catch up where we were when we  
8 left off, we were having you explain Exhibit 6, and the  
9 blowup is here on the stand of that particular document,  
10 and we were at the last paragraph. And what does that  
11 mean to you?

12 A It means the -- in this contract that the Bank again would  
13 get a -- would get a guarantee from the BIA, and I'm going  
14 to get \$53,000, 17 of it will be paid back on a note.  
15 37,500 would be to used to purchase 110 head of calves and  
16 fed with my own calves.

17 Q Okay. And if you back up to the paragraph above that that  
18 you were testifying before lunch, was that loan ever made  
19 to you?

20 A No.

21 Q You never received the \$70,000 annual operating loan?

22 A Never have. ✓

23 Q And the bottom paragraph of page one, the one you just  
24 spoke about, the 37,500 to purchase 110 head of calves,  
25 was that loan ever made to you?

1 A No.

2 Q It never has been?

3 A No.

4 Q And would you go to the next paragraph in that document,  
5 and what did you understand about that?

6 A That along with this contract that the Bank will give me a  
7 lease purchase option, and that in two years I can  
8 purchase land back.

9 Q And what land will you have an option to buy back?

10 A The one the Bank has a deed to over here, the 2230 acres  
11 of the home place.

12 Q And will you turn to Exhibit 7? What is the title of that  
13 document?

14 A It's a lease with option to purchase.

15 Q Is that the lease with option to purchase referred to in  
16 the loan agreement?

17 A Yes.

18 Q And what did you understand about the lease with option to  
19 purchase?

20 A I understood that I would have two years from December 5<sup>th</sup>  
21 of '96. And as for rent or payment, that would be the CRP  
22 payment, the Bank would get that. But if I activated my  
23 option to buy, that would be discounted off of the  
24 478,000. I had to pay the taxes, and I had 60 days from  
25 the -- if I activated the purchase, I had 60 days to come

1 up with the full amount. I would have to pay all the  
2 selling expenses, and they were on the top part of that  
3 contract.

4 Q You're referring to Exhibit 6, the loan agreement?

5 A Yes.

6 MR. HURLEY: And, Your Honor, we have a blowup of pages two  
7 and three of Exhibit 7 for the jury to look at as we go  
8 through that. May I put those up?

9 THE COURT: All right. Is that an exact replica of two and  
10 three or is that -- we've got actually -- (INAUDIBLE)  
11 Yeah, it looks like these are an exact replica. Since the  
12 exhibit was already admitted and this is an exact replica,  
13 I would want to note that you have highlighted certain  
14 words, and I imagine the witness would explain why you  
15 have highlighted them?

16 MR. HURLEY: Yes. It's just to illustrate his testimony.

17 MR. VON WALD: Can I see that, Jim? That's fine. Okay.

18 THE COURT: We will allow the use of that visual aid.

19 UNIDENTIFIED: I keep changing glasses here.

20 THE COURT: All right. Now we're referring to Exhibit 7,  
21 pages two and three. Page two is now going up before the  
22 jury.

23 Q (BY MR. HURLEY) And, Ronnie, concerning page two of  
24 Exhibit 7, which is the lease with option to purchase,  
25 could you turn to that, please?

1 A Page two, yes.

2 Q Okay. And under the paragraph option to purchase?

3 A Yes.

4 Q And could you explain to the jury why you highlighted  
5 those items on page two?

6 A It says that I should have an option to purchase the above  
7 described real estate during the term of the lease for the  
8 sum of \$468,000, and in the event I exercise the option to  
9 purchase I had to do it in writing and pay 5 percent of  
10 the purchase price and furnish the remaining balance of  
11 the purchase within 60 days. Another thing that I only  
12 got a quit claim deed back. I didn't get a warranty deed,  
13 just a quit claim.

14 Q Okay. And would you go to page three, please?

15 MR. HURLEY: And I will put that up for the jury, Your Honor.

16 THE COURT: All right. Page three blown up will be presented  
17 to the jury.

18 Q (BY MR. HURLEY) Could you explain to the jury, Mr. Long,  
19 why you highlighted those items?

20 A The residential real estate was, like we said before, the  
21 house in town that Dad moved to when he moved off of the  
22 farm. The Bank credited me \$10,000 for it.

23 Q Where?

24 A In the contract.

25 Q That's Exhibit 6, the loan agreement?

1 A Yes.

2 Q Okay.

3 MR. HURLEY: I will show that to the jury, Your Honor.

4 THE COURT: Sure.

5 Q (BY MR. HURLEY) So the 10,000 credit in Exhibit F, page 3  
6 of the lease with option to purchase is shown on the first  
7 paragraph of the loan agreement, Exhibit 6?

8 A Yes.

9 Q Okay. Go ahead, please.

10 A And if it sold for -- if it sold for more than that, it  
11 would be credited against my debt, against my other debts,  
12 guaranteed debt.

13 MR. VON WALD: Excuse me, where does it say that in that  
14 agreement there, Ronnie?

15 THE WITNESS: Well, okay. It says if it brings less.

16 THE COURT: What are you referring to Ronnie? Paragraph F?

17 THE WITNESS: Yes.

18 THE COURT: All right. It says -- what line, so the jury can  
19 follow this? Because the question before you is what it  
20 says.

21 THE WITNESS: Okay.

22 THE COURT: I don't think there is a question on what you  
23 believe it says.

24 Q (BY MR. HURLEY) Ronnie, could you explain why you  
25 highlighted these items for the jury? Can you see it from



1           there?

2 MR. HURLEY:        Could he move up here, Your Honor?

3 THE WITNESS:       Yeah. I'm all right.

4 THE COURT:         He can see it.

5 Q       (BY MR. HURLEY) Can you see it?

6 A       Yeah.

7 THE COURT:         Can you see it, Ronnie?

8 THE WITNESS:       Yeah.

9 A       In the event that the lessee exercises his option to  
10       purchase --

11 THE COURT:         Why don't you turn that back so we can follow it,  
12       so all the jurors can see it.

13 A       All payments of the estate would be credited against  
14       purchase price of the real estate. I guess that's what it  
15       means.

16 Q       (BY MR. HURLEY) Okay. Okay. And as to paragraph G,  
17       would you explain that?

18 A       If I -- if I exercise my option to purchase, I will have  
19       to pay 8 and a half percent per annum on unpaid balance of  
20       the purchase price after December 5<sup>th</sup> of '96.

21 Q       Okay. And in paragraph G, is there a credit in the event  
22       that you exercise the option to purchase?

23 A       All the rent -- all the rent payments that we're paying  
24       would get credit to the purchase price.

25 Q       Okay.

1 A Such as the CRP payments and that stuff.

2 Q Did you have a CRP contract on your land before it was  
3 turned over to the Bank?

4 A Yes.

5 Q And were there annual payments from that CRP contract on  
6 your land?

7 A Yes.

8 Q And approximately what amount was the annual payment?

9 A I don't remember the exact figure. Somewhat over \$44,000  
10 a year.

11 Q Okay. So in this two-year period, what was going to  
12 happen to those CRP payments?

13 A The Bank would get them.

14 Q As -- as what?

15 A As payment or rent for the land.

16 Q And in the event that you exercised your option to  
17 purchase, then that is what paragraph G refers to?

18 A Yes. And they would be taken off of the -- it would be  
19 deducted from that \$478,000 off of the purchase price. It  
20 would be \$82,000 off of the purchase price.

21 Q 44 twice would be?

22 A 88.

23 Q 88,000 credit off the purchase price --

24 A Yes.

25 Q -- of 468?

1 A Yeah.

2 MR. VON WALD: Excuse me, Your Honor. Just so that we don't  
3 confuse the jury. You are talking about the paragraph G;  
4 isn't that correct?

5 THE WITNESS: Yeah.

6 MR. VON WALD: And doesn't it say the payment -- I just want  
7 you -- want to ask you if this is what your copy says  
8 because this is what my copy says. It says payments --  
9 rent payments received prior to the purchase of said real  
10 estate will be credited against the purchase price of said  
11 real estate minus an amount equal to the interest at the  
12 rate of 8 and a half percent; isn't that right?

13 THE COURT: I think we were going to get to that, aren't we?

14 MR. HURLEY: We are -- our very next point, Your Honor.

15 MR. VON WALD: Oh, oh. Excuse me.

16 THE COURT: It was 88, and now we are going to get to the  
17 minus part. Go ahead.

18 Q (BY MR. HURLEY) And you were speaking earlier about the  
19 interest rate that accrued on the unpaid balance during  
20 the two-year period?

21 A Yes.

22 Q And what rate was that?

23 A 8 and a half percent.

24 Q And then what happened to that accrued interest?

25 A It got deducted.

1 Q Okay. Off of the --

2 A Purchase price.

3 THE COURT: That's where we're -- that's where I guess the  
4 objection would be. And I guess the document speaks for  
5 itself. You are saying 88,000. The 88,000 plus the  
6 interest would be deducted, and I assume you're saying the  
7 88,000 minus the interest, that that amount would be  
8 deducted. So the document speaks for itself. I  
9 understand your point you raised, but the witness can  
10 testify as to what he believed that document says.

11 Q (BY MR. HURLEY) And at the end of the two-year lease,  
12 December 5<sup>th</sup>, 1998, were you able to exercise your option  
13 to purchase and buy your land back?

14 A No, I wasn't.

15 Q And why not?

16 A Because I never did have the -- the 70,000 operating, and  
17 I never had the \$53,000 to buy more cattle back to  
18 increase my herd.

19 Q And over the two-year period of the lease then, did that  
20 hurt your production?

21 A Yes.

22 Q And was that the cause that you could not then generate  
23 enough money to be in a position to buy your land back?

24 A Yes.

25 Q Would you turn to Exhibit 8, please?

1 A (WITNESS COMPLIES.)

2 Q And what did you understand from this document?

3 A That the Bank of Hoven was requesting the BIA guarantee  
4 increase for \$415,000, and they would also make a grant  
5 loan of 41,000 to purchase 110 calves for 37,500 and to  
6 refinance the guaranteed note after applying the proceeds  
7 from 10 head of yearlings, and wheat and millet sales.  
8 This is kind of a -- it's to restructure the guarantee is  
9 what it is.

10 Q And what is the date of Exhibit 8?

11 A December 12<sup>th</sup>, 1996.

12 Q And was that after -- was that after the date that the  
13 loan agreement and lease with option to purchase was  
14 signed?

15 A Yes.

16 Q And as you've testified in the loan agreement, the Bank  
17 agreed to request the BIA approval of the increase from 85  
18 to 90 percent?

19 A Yes.

20 Q Did you understand that that's what this was?

21 A Yes.

22 Q Did you understand that --

23 A I guess --

24 Q Go ahead.

25 A Excuse me. I guess at the bottom here it says they wanted

1 a percentage increase to 90 percent.

2 Q The Bank did?

3 A The Bank did.

4 Q And this letter is addressed to the BIA?

5 A Yes.

6 Q And the Bank is requesting that increase?

7 A Yes, they are.

8 Q When you met on December 5<sup>th</sup>, 1996, the date that the loan  
9 agreement and lease with option to purchase was signed,  
10 did you and the bankers discuss the plan and the financial  
11 statement and the cash flows that went along with it?

12 A Yes.

13 Q Did the bankers tell you that the plan of restructure  
14 would work?

15 A Yes.

16 Q Look at the financial statement attached -- or included  
17 with that Exhibit 8. Do you see the financial statement  
18 there?

19 A Yes.

20 Q And what's the date on it?

21 A December 9th, 1996.

22 Q And was that after the agreement was entered into, the  
23 loan agreement, and the lease with option to purchase?

24 A Yes, it was.

25 Q Is this a financial statement of your farming and ranching

1 operation as of before the land was transferred to the  
2 Bank or afterward?

3 A No. There is no real estate on here.

4 Q Okay.

5 A Or there isn't the farm on here.

6 Q So this would be after the land was transferred to the  
7 Bank?

8 A Yes.

9 Q And does this financial statement reflect that the loan of  
10 53,5 mentioned in the loan agreement had already been  
11 made?

12 A Yes.

13 Q And does it also reflect that the 110 calves that you were  
14 going to purchase have already been purchased?

15 A Yes.

16 MR. HURLEY: Your Honor, I believe we have blowup of 8.

17 THE COURT: You've got blowup of page two of Exhibit 8 or  
18 page one, the letter? Okay. You've got both.

19 MR. HURLEY: I've got the letter. I probably will be talking  
20 about this one, and then there's more to come on that same  
21 exhibit.

22 THE COURT: All right. Let's let Dave look at those and make  
23 sure they're accurate.

24 MR. VON WALD: The exhibit that I have doesn't actually have  
25 this on there.

1 MR. HURLEY: Put a piece of paper over it or something.

2 THE COURT: Where is --

3 MR. VON WALD: These attachments.

4 THE COURT: All right. Jurors, disregard someone wrote on  
5 these attachments to this exhibit. Don't pay any  
6 attention to that. All right. You may use those visual  
7 aids in questioning the witness.

8 MR. HURLEY: Thank you.

9 Q (BY MR. HURLEY) Before I carry it over there, I would  
10 like you to note where you highlighted those things and  
11 turn back to the letter, which is the first page of  
12 Exhibit 8. (INAUDIBLE). Concerning the first page of  
13 Exhibit 8, would you explain to the jury what you  
14 highlighted there for them to look at?

15 A I've highlighted 9 and a quarter percent variable interest  
16 for the payment of -- they have requested an \$85,000 line  
17 of credit and the \$41,000 to purchase 110 calves for  
18 37,500 -- excuse me -- it was to make a direct loan for  
19 approximately 41,000 to purchase calves for 37,500 and to  
20 refinance guaranteed notes.

21 Q Okay. Would you go to page two then of Exhibit 8? And  
22 again would you explain to the jury why you highlighted  
23 those items?

24 A This was December 9<sup>th</sup>, 1996. It's a -- I had 1400 ton of  
25 hay. The real estate -- the farm real estate was all



1 along the top of the financial statement. You go to the  
2 top of the other side it has \$415,000. Well, that already  
3 included this \$70,000 line of credit which I hadn't got.  
4 53,500 to purchase the heifers with, I hadn't got that,  
5 but that's already included on here. So that brings it up  
6 to \$468,000, and it still left me a net worth of \$155,400.

7 Q With the extra debt of 70,000 and 53,500 on there?

8 A Yes.

9 Q And does it show the 110 calves that you were to purchase  
10 under the loan agreement, which is Exhibit 6?

11 A Yes. (INAUDIBLE).

12 Q And did you have -- does it show that you had adequate hay  
13 to take care of that many cattle?

14 A Yes.

15 Q And what does it show?

16 A It shows 1400 ton of hay. Plus, we had a lot of pasture.

17 Q Would you go then to page three of Exhibit 8? And again,  
18 could you identify -- well, first -- and we haven't talked  
19 about this yet -- would you describe for the jury, those  
20 who aren't familiar with it, what kind -- what kind of a  
21 document this is?

22 A This is a cash flow. My first year's cash flow that would  
23 be connected with that contract.

24 Q Which contract?

25 A The -- the one on -- contract where the Bank got the deed

1 to the land, and, I was to get the operating expenses and  
2 all of that.

3 Q Okay. What period --

4 THE COURT: Can you see that document? No? Okay.

5 Q (BY MR. HURLEY) For what period of time is this cash  
6 flow?

7 A It's from November 1<sup>st</sup>, '96 to 10-31-97.

8 Q Okay. And as far as the two-year lease is concerned under  
9 this restructure plan, what year is this?

10 A This would be the first year.

11 Q Okay. And do you see under this cash flow any part of the  
12 line of credit loan that you were promised in Exhibit 8,  
13 which is the loan agreement?

14 A Yeah. It would be up under cash receipts and line of  
15 credit.

16 Q In what amount?

17 A 40,000.

18 Q And do you see the livestock that you were going to  
19 purchase the 110 head that was the loan for which was  
20 promised to you under the loan exhibit, Exhibit 6, the  
21 loan agreement?

22 A Do I see it?

23 Q Are they on this sheet, this cash flow?

24 A That would be in the 37,500.

25 Q Okay. And I direct your attention to livestock purchases

1 and the items on the left column, and you go over under  
2 the column of December, January, February, and livestock  
3 purchases, 55 head of steers and 55 head of heifers.

4 Where do those come from?

5 A That was the purchase of the 110 head of calves.

6 Q Okay. And does this show that the restructure plan is  
7 working?

8 A Yes. And ends the year with 164,000 cash carry-over right  
9 at the bottom.

10 Q And did the Bank approve this cash flow?

11 A Yes.

12 Q And were you there when that -- when the Bank said that  
13 this will work.

14 A Yes.

15 Q Would you look at the last page of Exhibit 8? Would you  
16 describe that document, please?

17 A This would be the second year's cash flow.

18 Q Year two?

19 A Year two.

20 Q And what would that year -- what's the cash flow date for?

21 A 11-1-97 to 10-31-98.

22 Q Okay. And on the second year, did it appear that you  
23 needed to use the line of credit of \$70,000 that's  
24 mentioned in the loan agreement, Exhibit 6?

25 A No.

1 MR. VON WALD: Excuse me, Your Honor. Could we have a side bar  
2 conference for just a second?

3 THE COURT: Sure.

4 (OFF-THE-RECORD WHISPERED  
5 DISCUSSION WAS HAD OUT OF THE  
6 HEARING OF THE TAPE RECORDER).

7 Jurors, we're going to take about a five-minute  
8 recess. Again, just stretch your legs. We've got to talk  
9 about some things here, and we will invite you back in.

10 (RECESS TAKEN).

11 (THE FOLLOWING PROCEEDINGS TOOK  
12 PLACE OUT OF THE HEARING AND  
13 PRESENCE OF THE JURY:)

14 We're on the record. The jury is not here.  
15 The Long Family Land and Cattle versus Bank of Hoven. We  
16 had an issue that came up with Exhibit 8. Apparently,  
17 counsel for plaintiff was relying upon the cash -- the  
18 cash flow figures that were drawn up in October of '96 and  
19 were not actually submitted along with the request to the  
20 BIA to put a match to the loan -- the guarantee to the  
21 loan. There have been five documents provided to me, a  
22 letter from the Cheyenne River Sioux Tribe, John Lemke,  
23 CRST Credit Officer. That's two -- two pages of cash flow  
24 statements. These are dated -- it looks like there is a  
25 date they were faxed on December 11<sup>th</sup>, and there is a

1 request by defendant to substitute these five pages for  
2 the last two pages of Exhibit 8. Do you have any  
3 objection?

4 MR. VON WALD: No objection.

5 THE COURT: That means, therefore, that the cash flow figures  
6 that are on the blowup are not part of the record, and I'm  
7 going to instruct the jury that -- to disregard them with  
8 respect to those -- those cash flows.

9 THE CLERK: (INAUDIBLE).

10 THE COURT: Huh?

11 THE CLERK: (INAUDIBLE).

12 THE COURT: Oh. Tell her I'm busy.

13 THE CLERK: (INAUDIBLE).

14 THE COURT: I'm going to instruct the jury that these -- this  
15 cash flow was not the cash flow that was submitted to the  
16 Bureau in support of the guarantee. If you want to try to  
17 use it for some other reason, I won't preclude that.

18 MR. HURLEY: And I would offer that (INAUDIBLE).

19 THE COURT: Do you still want to try to offer this?

20 MR. HURLEY: Yes.

21 THE COURT: Okay. Do you still need a copy of this?

22 MR. HURLEY: I will get one at the break. (INAUDIBLE).

23 (JURY RETURNED TO THE COURTROOM).

24 THE COURT: (INAUDIBLE). Okay. Let's go back on the record.

25 We're on the record again. Long Family Land and Cattle

1 versus Bank of Hoven. Jurors, I've got to tell you what  
2 happened. By mistake the blowups of these cash figures,  
3 cash projections, they're not the ones that were submitted  
4 along with the request to the Bureau for the loan  
5 guarantee. Okay. We have now substituted the correct  
6 figures into Exhibit 8, so you will be able to see those  
7 figures when you deliberate this case. But the  
8 evidence -- the testimony that's been offered regarding  
9 these cash flow figures, you are to disregard that with  
10 respect to these figures being submitted to the BIA. They  
11 were not submitted to the BIA. Jurors, do you understand  
12 that? There are other figures that are in Exhibit 8 now,  
13 and for the record I've added five pages to Exhibit 8 and  
14 replaced the last two pages that have the correct cash  
15 flow figures. However, I understand that you have marked  
16 those two pages now as 8A, and you are asking that they be  
17 considered; is that correct?

18 MR. HURLEY: Yes, Your Honor.

19 THE COURT: Any objection from --

20 MR. VON WALD: No. I have no objection.

21 THE COURT: Okay. Jurors, just for your information, these  
22 figures actually were done up in October of '96 about two  
23 months before the Bank requested from the BIA that they  
24 guarantee the loan to -- to Mr. Long.

25 MR. HURLEY: Yes.

1 THE COURT: So these figures are still in the record, and I  
2 just want to make sure that you know these are October  
3 figures. We've got the December figures in Exhibit 8. Go  
4 ahead.

5 MR. HURLEY: Thank you. May I approach the witness, Your  
6 Honor?

7 THE COURT: You may. Just to clarify the record, this is now  
8 8A, document 8A, which I'm putting behind those five pages  
9 we just replaced. Go ahead.

10 MR. HURLEY: Thank you.

11 Q (BY MR. HURLEY) And, Ronnie, I apologize for my mistake.  
12 I changed it now. It's 8A. And before you in your book  
13 there you have Exhibit 8A which, as the Court says, shows  
14 a date of October 29<sup>th</sup>, 1998 in the left margin fax from  
15 CR -- Cheyenne River Sioux Tribe Chairman's Office. Do  
16 you see that?

17 A Yes.

18 THE COURT: 1996.

19 MR. HURLEY: Excuse me. '96. Yes. I stand corrected.  
20 October 29, 1996. Thank you.

21 Q (BY MR. HURLEY) Okay. Can you give us some background on  
22 this document? Did you help prepare this?

23 A Yes, I did.

24 Q Who did you work with?

25 A I worked with Jim Nielsen and Harley Henderson.

1 Q And who is Jim Nielsen?

2 A He was a loan officer from the Bank of Hoven.

3 Q And who is Harley Henderson?

4 A He worked in the Planning Office in Eagle Butte.

5 Q And did you work with --

6 A I believe -- I believe Dennis Huber helped with this, too.

7 Q Who's Dennis Huber?

8 A He's from Bismarck, and he's -- he works for the North and  
9 South Dakota Native American Economic Development. He  
10 only helps do a lot of this planning.

11 Q And what was the purpose of all of you fellows working on  
12 this cash flow?

13 A I was working on this to prepare statements or stuff for  
14 the contract.

15 Q What --

16 A Figure out how to write the contract and stuff up.

17 Q What contract?

18 A That the Bank offered for trade of the deed for the  
19 operating loans and stuff.

20 Q And was that in October of 1996?

21 A Yes.

22 Q And do these cash flows reflect the restructure plan as  
23 you've described it?

24 A Yeah. It's got the 70,000 operating and the 53,000 -- or  
25 37,000 to buy calves -- 35,000 or whatever it is, 37,5.



1 Q And does this show that the restructure plan would work?

2 A Yes, it does.

3 MR. HURLEY: Your Honor, we offer Exhibit 8A.

4 THE COURT: I think you have no objection, Dave?

5 MR. VON WALD: I didn't, no.

6 THE COURT: All right. Jurors, this is the October figures  
7 that we're -- that are allowed into evidence now. And  
8 again, you will be able to read these, jurors.

9 Q (BY MR. HURLEY) And to go back to where we were before  
10 the break, does page one, Year 1 of Exhibit 8A show the  
11 line of credit that is in the loan agreement, Exhibit A?

12 A Yes, it does.

13 Q And have you highlighted that for the jury?

14 A Yes.

15 Q And you're pointing to this?

16 A Yes.

17 MR. VON WALD: What was the question?

18 THE COURT: Again, I don't think the jurors on the end can  
19 see that document.

20 MR. VON WALD: What was your question? I guess I misunderstood.

21 MR. HURLEY: The question was: Does the cash flow, which is  
22 Exhibit 8A on page one for Year 1, show the line of  
23 credit, the new line of credit for operating? And does  
24 the --

25 MR. VON WALD: Where does that show that?

1 THE COURT: Pull it out for the jury, Jim.

2 MR. HURLEY: Ronnie he was pointing to right up here where it  
3 says cash receipts from LOC.

4 Q (BY MR. HURLEY) What does LOC stand for, Ronnie?

5 A Line of credit.

6 Q And you show there 40,000 in November?

7 MR. VON WALD: \$40,000 line of credit?

8 Q (BY MR. HURLEY) In November?

9 A We used 40,000 in November. If you go across the rest of  
10 the line, it's 68,000.

11 Q You used another -- you used -- some more in January?

12 A Yeah. We used -- you follow that line across  
13 horizontally, and you have another --

14 Q How much did you use in January?

15 A Just about 5,000.

16 Q How much did you use in March?

17 A 3,000.

18 Q How much in April?

19 A 3,000.

20 Q How much in May?

21 A 2,000.

22 Q How much in June?

23 A 15,000.

24 Q What was your total use of line of credit Year 1?

25 A 68,000.

1 Q Okay. And does that refer to the \$70,000 new line of  
2 credit loan that was in the loan agreement?

3 A Yes, it does.

4 Q Which is Exhibit 6?

5 A Yes.

6 Q And down under livestock purchases on page one for Year 1  
7 of Exhibit 8A, does it show the cattle that you were going  
8 to purchase with the cattle purchase loan under the loan  
9 agreement?

10 A Yes.

11 Q And read what it --

12 A It shows 55 head of steers at \$325 and 55 head of heifers  
13 at \$285. That's the 110 head.

14 Q And does page one, Year 1, of Exhibit 8A, too, show that  
15 the restructure plan will work?

16 A Yes.

17 Q And how do you know that?

18 A By the year-ending balance.

19 Q And what is that?

20 A It's 164,378.

21 Q And would you go to page two of Exhibit 8A? In Year 2,  
22 did you have to -- under this cash flow, did you have to  
23 use any of the line of credit?

24 A No. Because I had 164,000 carry-over because I didn't  
25 need to have to borrow a line of credit.

1 Q So line of credit, figure zero?

2 A Right.

3 Q And on Year 2 of Exhibit 8A, does it also show livestock  
4 purchases?

5 A Yes.

6 Q In what month?

7 A November.

8 Q And does page two of Exhibit 8A show that the two-year  
9 plan of restructure was working?

10 A Pardon?

11 Q Does it show that the plan was working, page two of  
12 Exhibit 8A?

13 A Yes.

14 Q And how do you know that?

15 A Because the year-end balance is 295,000.

16 Q And did the banker you were working with, Mr. Nielsen,  
17 agree that the restructure plan would work?

18 A Yes.

19 Q And did Mr. Harley Henderson agree?

20 A Yes.

21 Q And did Mr. Dennis Huber agree?

22 A Yes.

23 Q And does it indicate that at the end of the two years,  
24 Ronnie, you would have enough cash built up under this  
25 plan to be able to be in a position to buy your land back?

1 A Yes.

2 Q How many head of cattle did you have at the end of this  
3 two-year period?

4 A I would have had over 300 cows.

5 Q Do you see that indicated on page two of 8A?

6 A Yes.

7 Q Where?

8 A Up on top here.

9 Q And did you have cattle other than cows?

10 A Yes.

11 Q Where do you see that indicated?

12 A I would have had 360 yearlings.

13 Q So you had 300 cows, 360 yearlings, and 295,000 in cash?

14 A Yes. And this -- this shows after making payments and  
15 everything on the loan.

16 Q And on page one, what loan repayments do you see?

17 A This 68,000.

18 Q Okay.

19 A And the BIA loan, the real estate loan, the real estate --

20 Q And so the \$295,000 is after making those payments?

21 A Yes.

22 Q Okay. And would you look at Exhibit 9, please? And is  
23 this personal representative's deed the document by which  
24 the land was transferred to the Bank?

25 A Yes, it is.

1 Q Okay. It appears that was filed December 27<sup>th</sup>, 1996?

2 A Yes.

3 Q Would you go to page 10, please -- Exhibit 10?

4 THE COURT: And this one has not been admitted yet, correct?

5 MR. VON WALD: No.

6 THE COURT: Lay a little foundation for this one.

7 MR. HURLEY: Okay. Your Honor, I think I will wait for the  
8 next witness on this one.

9 THE COURT: Okay.

10 MR. HURLEY: Thank you.

11 Q (BY MR. HURLEY) Can you turn to Exhibit 11, please? Can  
12 you see the document that is marked Exhibit 11?

13 A Yes.

14 Q And what did you understand from that document?

15 A This is a letter from the area director telling Jim  
16 Nielsen that he didn't put in a complete application for  
17 the BIA guarantee to raise it from 84 to 90 percent and  
18 remodify it. And he's also telling him that they could  
19 make an emergency feed loan, which amounts to 10 percent  
20 of your original guarantee which would have given me about  
21 \$42,000 to save the cattle with. And they also -- they're  
22 also saying under separate copy we are again sending a  
23 copy of the 25 CFR, which tells him how to apply for  
24 guaranteed loans.

25 Q Okay. In paragraph one it speaks to a conversation

1 between Bank of Hoven and loan specialist, Stacey Johnston  
2 on February 3, 1997. Do you see that?

3 A Yes.

4 Q Were you a party to that conversation?

5 A No.

6 Q And it appears from paragraph one that this letter of  
7 February 14<sup>th</sup> is responding to the Bank's letter of  
8 December 12<sup>th</sup>; is that correct?

9 A That's correct.

10 Q Which would be Exhibit 8, the one we just went through,  
11 correct?

12 A Yes.

13 Q Did the Bank make to you an emergency feed loan as pointed  
14 out in this letter?

15 A No, they never.

16 Q Did the Bank make to you the operating loan of \$70,000 as  
17 set out in the loan agreement, which is Exhibit 6?

18 A No, they never.

19 Q And in reference to the last paragraph, did the Bank ever  
20 respond back to BIA with a more complete application to  
21 the BIA to approve an increase in the BIA percentage from  
22 84 to 90 percent?

23 A No, they never.

24 Q Would you go to paragraph 13 -- or Exhibit 13, please?  
25 Can you explain that document?

1 A Seeing John Lemke down to the Eagle Butte Planning Office  
2 and he told me that the Bank had told him to have me write  
3 a letter describing what I was doing all winter. I don't  
4 know why. It seems as though there was some rumors going  
5 around that I just let the cows die.

6 Q Who is John Lemke?

7 A He was the planning officer in Eagle Butte here.

8 Q And as a result of that request, you wrote up this letter?

9 A Yes.

10 Q And you sent it to Bank of Hoven?

11 A Yes.

12 Q And I see on page two you copied it to others?

13 A Sent it to John Lemke, Cheyenne River Tribe Credit  
14 Officer; Russell McClure, Agency Superintendent; Stacey  
15 Johnston, Area Loan Specialist; and Delbert Brewer, Area  
16 Director.

17 Q Okay. Page one you start out with December 5. Where were  
18 you on December 5, 1996?

19 A I was in Hoven discussing our plans for our cattle  
20 operation and doing the contract.

21 Q But that was the date that you signed Exhibit 6 and 7,  
22 isn't it, the loan agreement --

23 A Yes.

24 Q -- and the lease with option to purchase?

25 A Yes.



1 Q At that meeting, did you discuss your needs for a line of  
2 credit?

3 A Yes.

4 Q With who?

5 A Everybody that was there.

6 Q And did you explain why?

7 A Yeah. Because winter was coming on fast and we needed to  
8 move the hay. We had the hay. We needed the operating  
9 money.

10 Q How much hay did you have?

11 A 1400 ton.

12 Q Was that adequate to care for your cattle?

13 A Yes.

14 Q Where were the cattle?

15 A They was down on my range unit down in the winter country.  
16 It's about 20 miles from home. We usually raise the feed  
17 up at the farm and take the cattle down to the breaks in  
18 the winter.

19 Q What do you mean by the "breaks"?

20 A Down on the range unit.

21 Q What do "breaks" mean?

22 A Well, it's real deep draws and stuff, and they get out of  
23 the wind down there. You know, they can take a very hard  
24 winter.

25 Q And where was the hay?

1 A It was up at the farm.

2 Q And that's how much distance from where the cattle were?

3 A About 20 miles.

4 Q And why does it take operating expense to move the hay to  
5 the cattle?

6 A It takes -- it takes money to hire stack movers, you know.  
7 They don't -- they can't -- they don't do it for nothing,  
8 and they need the money up front just about because they  
9 haul it.

10 Q And how was this hay packaged?

11 A Round bales.

12 Q So the round bales needed to be loaded?

13 A Yes.

14 Q On trucks?

15 A Yeah.

16 Q And taken to the cattle?

17 A Taken down there and stacked.

18 Q And unloaded and stacked?

19 A Yes.

20 Q And what was the response of those who were there at the  
21 signing of the loan agreement and the lease with option to  
22 purchase?

23 A Well, all that I got is that I would be -- they would be  
24 receiving the BIA guarantee shortly.

25 Q And then what?

1 A And then I would get my operating loan.

2 Q Okay. And December 11<sup>th</sup> under the paragraph entitled  
3 December 11<sup>th</sup>, what were you referring to there?

4 A The 11<sup>th</sup>, Jim Nielsen told me he would fax the papers to  
5 Lemke's office and that's referring to -- that's referring  
6 to that letter, the one we just --

7 Q Exhibit 8?

8 A The one we just done.

9 Q Okay.

10 A Where Jim Nielsen wrote to McClure asking for the  
11 guarantee, the incomplete application.

12 Q And what did he tell you about that?

13 A I -- I don't know who you are talking about.

14 Q Well, under December 11<sup>th</sup>, you say all that was needed is  
15 Stacey Johnston and the Area Director's signatures?

16 A Well, that's all it would have taken.

17 Q Okay.

18 A But it was an incomplete application, and nobody could  
19 sign it.

20 Q The next paragraph. What did you do?

21 A It says after deciding that we were going to keep the  
22 calves and run for yearlings, which was decided when we --  
23 when we done the contract.

24 Q Who decided that?

25 A Well, when I got the contract, that's where it come up,

1 and that's where these cash flows and all of this stuff  
2 was about.

3 Q And that was agreed to between you and the Bank?

4 A Yes.

5 Q Okay. What happened then?

6 A And then it just tells that -- that after December 11<sup>th</sup>, I  
7 went down the 13<sup>th</sup> and plowed out -- there was some snow,  
8 and I plowed out all the roads and cleaned up the  
9 corrals --

10 (END OF TAPE DUPLICATE #3 TAPE #2.)

11 (THE FOLLOWING PROCEEDINGS TOOK

12 PLACE ON DUPLICATE #4 TAPE #1:)

13 -- and stuff. And I called the truckers. I lined up the  
14 trucks to haul them out the 15<sup>th</sup>, which is two days later.

15 Q And at that point you were planning to haul the cattle out  
16 of the breaks?

17 A Yeah. We didn't know what to do. We had to feed -- it  
18 was cheaper to haul the cattle, but . . .

19 Q So you were going to bring the cattle to the hay?

20 A Yes.

21 Q Okay. Go ahead.

22 A And then -- and then the 13<sup>th</sup> it stormed for five days and  
23 plugged everything back up again.

24 Q Okay.

25 A And then we couldn't get them out.

1 Q Go on.

2 A We got down there as often as we could and fed them. I  
3 even fed some of Doc Maciejewski's hay. He said I could.  
4 And what hay that I did have down there, we fed. Tried to  
5 haul some cake with snowmobiles and stuff, but that didn't  
6 work really well.

7 Q Was it possible -- was it possible that at that time to  
8 get the cattle out of their winter breaks?

9 A No.

10 Q So then what did you do?

11 A I was determined to do what I could every day to try to  
12 find a way to get down there and tend to them.

13 Q Did you have any operating money to do that with?

14 A No.

15 Q When were you finally able to plow the snow off the roads  
16 and get down to them with tractors or trucks?

17 A February 2<sup>nd</sup>, Mike Peterson plowed out the cows.

18 Q Okay. On February 2<sup>nd</sup>, did you have any operating money  
19 to hire trucks to haul the hay down to them?

20 A No.

21 Q Okay. Go onto page two. And would you read the first  
22 sentence of the third paragraph on page two?

23 A "In the result of not having the Kenneth Long Estate  
24 settled and operating money not available, the hay and the  
25 cattle were never removed. Also, the cattle never got

1 insured which the blanket insurance would have cost  
2 approximately \$2,000 covering the cattle plus. The  
3 insurance was brought to everyone's attention the first  
4 part of December."

5 Q And by "everyone's attention," who are you talking about?

6 A At the Bank.

7 Q And was -- how is -- how did you plan to pay for that  
8 2,000 insurance premium?

9 A With the operating loan.

10 Q Okay. And you never did get the operating loan?

11 A No.

12 Q And then you couldn't insure the cattle?

13 A Right. I had them insured before, but I didn't -- I ran  
14 out of money, and I couldn't renew the premium.

15 Q Okay. Go to the next paragraph if you would.

16 A "The cattle were in the best location possible for most  
17 winters, but due to the blocked roads and bad weather  
18 conditions it was impossible to get feed to them on a  
19 daily basis."

20 Q And the next paragraph?

21 A "I had minimal losses until the blizzard of January 15<sup>th</sup>  
22 and 16<sup>th</sup> when the wind chill was 50 to 80 degrees below  
23 zero and the cattle drifted out of the draws." Those are  
24 the ones that died.

25 Q Now, those that didn't drift out of the draws, down in the

1 breaks, did they die or did they stay alive?

2 A They stayed alive.

3 Q And did you still have most of your cattle after the  
4 blizzard of the 15<sup>th</sup> and 16<sup>th</sup>?

5 A No.

6 Q What percentage of them died during that period of time?

7 A I would say three-fourths of them.

8 Q Okay. And that was some 40 days after the loan agreement  
9 was signed. Did you still not have any operating money  
10 from the Bank?

11 A That's right. I didn't.

12 Q Would you go onto Exhibit 14, please? And with all of  
13 this going on, were you frustrated with not being able to  
14 get feed to your cattle?

15 A Yes.

16 Q Or get your cattle to the feed?

17 A Yes.

18 Q What does Exhibit 14 show?

19 A It's FEMA papers. That's cattle that I had, the cattle I  
20 lost, what payment I got.

21 Q And does it show how many cows that you lost in the winter  
22 of '96, '97?

23 A Yes, it does.

24 Q And how many cows died in the winter of '96, '97?

25 A Out of 286 calves, I lost 277 of them.

1 Q And that's out of the calves?

2 A Yeah. 349 cows and I lost 230 head.

3 Q And how many cows did you have left then after the winter  
4 blizzards?

5 A 119.

6 Q Now, if you had operating money and were able to get your  
7 hay down to those cows, in your experience with that  
8 winter quarters, would your cows have been able to  
9 survive?

10 A Yes.

11 Q And would your calves have been able to survive?

12 A Yes.

13 Q And had you wintered there before with hay available in  
14 the breaks?

15 A Yes.

16 Q Now in connection with Exhibit 14, you mentioned FEMA.  
17 What is that?

18 A It's a federal disaster deal that pays you a percentage of  
19 what your loss is.

20 Q Is that also part of when I see the letters LIP, LIP?

21 A Yes.

22 Q In connection with the FEMA application, did anyone from  
23 the U. S. Government Department of Agriculture or  
24 otherwise come and verify these losses?

25 A Yes. An outfit out of Kansas City was the inspector



1 general or whatever. I even had to take them and show  
2 them, so they were -- they verified it.

3 Q Okay. And were you paid for the full and true value of  
4 the cows and calves that you lost?

5 A No.

6 Q How much money did you receive through FEMA?

7 A About 48,000.

8 Q And that was just a part of the value -- a portion of the  
9 value of those cattle that you lost?

10 A Yeah. I lost over 500 head.

11 Q Would you go onto Exhibit 15, please? And what do you  
12 understand about Exhibit 15?

13 A This is the sale of the house in town, Dad's house. It  
14 sold for \$30,000. It costs about 3500 to have it -- to  
15 get it ready for sale, and after deducting the -- that and  
16 the previous credit of 10,000 that was on that contract,  
17 there was \$16,478 leftover.

18 Q And when you refer to that contract, do you mean the lease  
19 with option to purchase?

20 A Yes -- no. Well, it's the contract that goes with the  
21 lease with option to purchase.

22 Q Okay.

23 THE COURT: Let me just step out here. I will make a real  
24 quick call. So, Jurors, let's talk about five. Let's  
25 keep it real short. Five-minute recess, Jurors, and come

1 back in.

2 (RECESS TAKEN.)

3 All right. We're back on the record, and  
4 I believe Mr. Long was still testifying on direct  
5 examination by his attorney.

6 Q (BY MR. HURLEY) Okay. And before the break, we were  
7 looking at Exhibit 15. Do you have that before you,  
8 Ronnie?

9 A Yes.

10 Q And you were explaining that your father's house sold for  
11 30,000, producing a net of 26,478.61, correct?

12 A Correct.

13 Q And take it from there on the next line.

14 A Then the 10,000 was deducted that I had been given credit  
15 for on the -- on the real estate.

16 Q On the loan agreement?

17 A On the loan agreement.

18 Q Okay.

19 A And then it left \$16,478.

20 Q And what's the description on that number?

21 A Says the balance to be deducted from the lease purchase  
22 option with the farmland.

23 Q Okay. Were you able to exercise your option to buy your  
24 land back?

25 A No.

1 Q Was that 16,478.64 ever credited against your loans or  
2 paid to you in any way?

3 A No.

4 Q Would you look at Exhibit 16, please? And what do you  
5 understand from those documents marked Exhibit 16?

6 A This -- this appears to me --

7 MR. VON WALD: 16 is not in evidence yet.

8 THE COURT: You object to -- he is entitled to lay some  
9 foundation, but don't ask him what the document is.

10 MR. HURLEY: Okay.

11 THE COURT: Lay a little foundation on what he understands it  
12 to be (INAUDIBLE).

13 MR. HURLEY: Okay.

14 Q (BY MR. HURLEY) Has the BIA contacted you that --  
15 concerning any financial matters?

16 A Yes.

17 Q And what was the notice that the BIA gave to you?

18 A Two or three months ago the BIA got a hold of me and said  
19 I owe them close to \$400,000.

20 Q Why was that?

21 A Because the Bank of Hoven transferred the BIA guarantee  
22 loan back to them.

23 Q And why did the Bank transfer the guaranteed loan back to  
24 BIA?

25 A Because they -- they made a claim -- or a claim for loss

1 from the government.

2 Q And what happened?

3 A That was in default.

4 Q And what happened then?

5 A Then the BIA takes it over.

6 Q Okay. And why does the BIA claim that you owe money to  
7 the BIA then?

8 A Because they claim that that was the amount that they paid  
9 to Bank of Hoven, the way I understand it.

10 Q And what do you understand Plaintiffs' Exhibit 16 and 17  
11 to be connected with that process?

12 A 16 and 17?

13 Q Excuse me. 16 page one, and 16 page two.

14 A That's -- that's the way I understand it, that this is  
15 what the BIA paid the Bank.

16 MR. HURLEY: We would offer Plaintiffs' Exhibit 16, page one  
17 and two.

18 THE COURT: One quick -- how did you get this document?  
19 Someone from the BIA gave it to you?

20 THE WITNESS: Yes.

21 THE COURT: Okay. Any objection?

22 MR. VON WALD: Yes, Your Honor. The document that you are  
23 looking at here, was that a part of your normal business  
24 records or was it acquired for purposes of this lawsuit?

25 THE WITNESS: No. It was in with all the records.

1 MR. VON WALD: So it was acquired for purposes of this lawsuit?

2 THE WITNESS: It would have been in my records, not just for  
3 the purpose of this lawsuit.

4 MR. VON WALD: When did you receive this document?

5 THE WITNESS: Well, the BIA sent me a complete file a long time  
6 ago. I can't remember the date. But --

7 MR. VON WALD: For purposes of this lawsuit, correct?

8 THE WITNESS: No.

9 THE COURT: And your objection -- you have more voir dire?

10 MR. VON WALD: Yes, I would. The document that's here, you said  
11 that you understand --

12 THE WITNESS: No. I said this is the way I understand.

13 MR. VON WALD: That's the way you understand it. So you don't  
14 know that that's what the Bank has been paid, do you?

15 THE WITNESS: This is what the -- this is also what the BIA is  
16 asking me to pay right now.

17 MR. VON WALD: The principal amount?

18 THE WITNESS: Um-hum.

19 MR. VON WALD: But you don't know that the Bank has been paid  
20 the amount as you've testified, correct?

21 THE WITNESS: Well, it says in consideration of 378,000  
22 received from the United States Government.

23 MR. VON WALD: Do you know whether or not the Bank has been paid  
24 the amount that's on here, no matter what the document  
25 says?

1 THE WITNESS: No, I don't.

2 MR. VON WALD: Your Honor, I would object to the admissibility  
3 of this exhibit. This witness has obviously kept this  
4 basic exhibit for purposes of this trial. It's not a part  
5 of his business records, number one. Number two, he  
6 really doesn't have any idea what was paid to the Bank.  
7 If this -- I think that same exhibit could be gotten into  
8 evidence through Mr. Simon who's going to be a witness,  
9 and I won't object then.

10 THE COURT: Do you still want to move its admissibility  
11 through this witness?

12 MR. HURLEY: I will wait for Mr. Simon, Your Honor.

13 THE COURT: Okay. We will reserve ruling on it.

14 Q (BY MR. HURLEY) And did the BIA notify you the amount  
15 that you owed to the BIA?

16 A Yes.

17 Q And what is that amount?

18 A Somewhere between 390 and \$400,000.

19 Q And counsel asked you if that was principal and you said  
20 yes. My question is: Does interest accrue on the amount  
21 that you owe BIA? Did BIA tell you one way or another?

22 A I'm sure it does.

23 Q How do -- how do you know that?

24 A The lady in the Planning Office told me.

25 Q Okay. Told you that that was plus accrued interest, that

1 interest accrues on that amount?

2 A Yes.

3 Q Okay. Would you look at Plaintiff's Exhibit 17, please?

4 Can you explain that?

5 A This is a letter that I wrote the Bank of Hoven asking for  
6 a 60-day extension that I had four possible people to  
7 refinance this land, and I guess that would be what it is,  
8 that I wanted to buy back the land.

9 Q And by --

10 A And I was asking for a 60-day extension.

11 Q And what's the date of your letter?

12 A 12-1 of '98.

13 Q And that was just before the two years were up on your  
14 loan agreement and option to buy back?

15 A Yes.

16 Q Which would have been what date?

17 A December 5<sup>th</sup>.

18 Q Of what year?

19 A 1998.

20 Q Okay. And you had four possibilities of refinancing.

21 What does that mean?

22 A I had people looking at it, and I had an outfit out of  
23 Nebraska that was interested in investing in it.

24 Q Okay. And if those people invested in it and put in --  
25 put up the money then, that money would do what?

1 A That would buy the land back.

2 Q From the Bank?

3 A From the Bank.

4 Q Take a look at Exhibit 18, please. What does that  
5 document say?

6 A This is a letter back from the Bank dated December 2<sup>nd</sup>,  
7 1998, the next day, and it was saying that there would be  
8 no extension, and the contract terminates December 5<sup>th</sup>.

9 Q Okay. And as of this date, December 2, 1998, had the Bank  
10 ever made the operating loan of \$70,000 to you?

11 A No.

12 Q And had the Bank ever made the loan of 53,000 so you could  
13 buy the 110 head of calves?

14 A No.

15 Q And had the Bank ever reapplied to the BIA with a more  
16 complete application for increasing the guaranteed 84 to  
17 90 percent?

18 A No.

19 Q Would you go to Exhibit 20, please? What was your  
20 understanding of those three documents that are marked  
21 Exhibit 20?

22 A It was a letter from the Bank of Hoven addressing the  
23 Tribal Court with certain notice to quit on me to get off  
24 the land.

25 Q And this was the Cheyenne River Sioux Tribe Tribal Court?



1 A Yes.

2 Q And did the Bank follow up on that with a hearing in this  
3 Court and obtain an order to force you to get off your  
4 land?

5 A No.

6 Q Take a look at Exhibit 19. And what happened there?

7 A This is a -- this is where the Bank sold the Pesickas  
8 320 acres of the land for a quit claim deed.

9 Q Okay. And was this sale made on the same basis that the  
10 Bank allowed you to buy the land back?

11 A No.

12 Q In what respect is it different?

13 A Well, they charged these guys \$155 an acre, and they  
14 wanted \$210 an acre from me.

15 Q So Pesickas were allowed to buy it for less?

16 A Yes.

17 Q And would you look at Exhibit 21, please? What's your  
18 understanding of that document?

19 A This is where they sold the rest of the land to the  
20 Maciejewskis.

21 Q Who did?

22 A The Bank of Hoven.

23 Q Had the Bank obtained an order of the Cheyenne River Sioux  
24 Tribal Court forcing you off the land prior to selling the  
25 land under this contract of deed to Maciejewskis?

1 A No.

2 Q And was the terms of this sale of your land to the  
3 Maciejewskis on terms more favorable than the Bank had  
4 agreed to, that you could buy your land back from the  
5 Bank?

6 A Yeah, it was different. They were charging me 8 and a  
7 half percent interest, the Bank was. They charged  
8 Maciejewskis, 7 and three-quarters percent. I had two  
9 years to pay for it. They give Maciejewskis ten.

10 Q And did the Bank offer to finance your purchase through a  
11 contract for deed?

12 A No.

13 Q Yours was cash in full?

14 A Yes.

15 Q And if you were offered this contract for deed on these  
16 terms with these payments, would that have been  
17 substantially easier for you to buy your land back than  
18 the offer that the Bank made to you?

19 A Yes.

20 Q In what respect.

21 A Well, they give them ten years here, and I had two. I  
22 guess it was a cheaper percent of interest.

23 Q And did you have to --

24 A I had land come out of the CRP, and then there was a  
25 \$23,000 a year FSA payment that could have went as a

1 payment of the land. The Bank and Maciejewskis have  
2 collected that ever since.

3 Q Ever since 12-5 of '98?

4 A Yeah. Ever since his contract.

5 Q Okay. Would you look at Exhibit 22? Before we leave  
6 that, did you voluntarily give up possession of the  
7 2230 acres of land?

8 A No.

9 Q What happened?

10 A Pesickas just took over.

11 Q In what respect?

12 A Two quarters.

13 Q How did they do that?

14 A Just moved his cattle in. Maciejewskis chased my cattle  
15 off of part of Parcel 1, moved machinery off of it, just  
16 drug it off.

17 Q Your machinery?

18 A And put a fence on it, fenced it separate from Parcel 2,  
19 and I never did give up possession of any of it.

20 Q Do you still have any machines on Parcel 1?

21 A Yes.

22 Q What is it?

23 A I got a lot of machinery on Parcel 1.

24 Q Okay. Would you look at Exhibit 22, please? Okay. And  
25 is this something that you wrote down and had my office

1 type up?

2 A Yes.

3 Q And does this Exhibit 22 help illustrate your testimony?

4 A Yes.

5 Q And what are you trying to describe here?

6 A Well, at our hearing before, it was brought up that the  
7 Bank had given me a lot of money after our agreement --  
8 our purchase agreement.

9 Q December 5, 1996?

10 A Yes. So I documented what money they give me, and I wrote  
11 it down and -- should I go through it?

12 THE COURT: Well, let's determine its --

13 MR. HURLEY: Your Honor, we would offer Exhibit 22.

14 THE COURT: Any objection?

15 MR. VON WALD: No objection.

16 THE COURT: All right. That will be admitted as Plaintiff's  
17 Exhibit 22. Now go ahead.

18 Q (BY MR. HURLEY) To answer your question, no, I don't  
19 think it's necessary for you to go through that. The  
20 document speaks for itself, and of course the jury will be  
21 able to read it. But I have this question: Was this  
22 money that you document here that you received after  
23 December 5, 1996, was any of that the result of new money  
24 under a new note or \$70,000 for an operating line?

25 A It wasn't -- it wasn't under the \$70,000 operating line.

1 It was just a new internal note.

2 Q Was it one note or more than one note?

3 A More than one.

4 Q Was there a separate note, for example, for the lease?

5 A Yes.

6 Q And you borrowed that money under a new note in that  
7 amount?

8 A Yes.

9 Q Was there a separate note, for example, for the used  
10 snowmobile?

11 A Yes.

12 Q And that was a separate note for that purpose?

13 A Yes.

14 Q And for all the operating expenses that you have under all  
15 grouped together in the amount of \$5,000, was that all one  
16 new note for that -- for that purpose?

17 A Yes.

18 Q And was there any new note offered to you by the Bank for  
19 an operating line related to the \$70,000 that is set out  
20 in the loan agreement, Exhibit 6?

21 A No.

22 Q Okay. Would you go to Exhibit 23? And what are you  
23 showing on Exhibit 23?

24 A I'm showing damages for 1997.

25 Q And would you --

1 A Exhibit 23 would be all of the years up-to-date for the  
2 damages.

3 Q Okay.

4 A That shows that I lost 230 cows at \$620 a head, and it  
5 shows 260 mixed steers and heifers that died at \$700 a  
6 head as yearlings. It shows ten culled yearlings, that  
7 would have been ten culled out of that hundred that we  
8 were to buy. It shows the CRP payment. It shows that I  
9 deducted the FEMA payment from the damages, and it shows  
10 the operating expense of 34 percent minus. And the total  
11 damages for 1997 would be \$215,054 without interest.

12 Q In your mind, why did you suffer those damages?

13 A Because I didn't have no operating line. The contract was  
14 never held to.

15 Q In your mind, did the Bank breach the loan agreement?

16 A Yes.

17 Q And in your mind, did the Bank have to perform under the  
18 loan agreement and make you the operating loan of \$70,000  
19 and make you a loan to buy the cattle before you could  
20 perform under the lease with option to purchase and buy  
21 your land back?

22 A Yes. That's the only way it would have worked.

23 Q If you had no operating loan from December 5, 1996  
24 forward, were you able to operate at all?

25 A No. Couldn't hardly do nothing.

1 Q And did that guarantee almost that you wouldn't be able to  
2 buy your land back?

3 A Yes.

4 Q In your mind --

5 MR. VON WALD: I will object, Your Honor. These are all leading  
6 questions.

7 THE COURT: Sustained.

8 Q (BY MR. HURLEY) Okay. Would you take a look at the  
9 second page of Exhibit 23? What does that show?

10 A It shows the damages for 1998.

11 Q Would you explain those, please?

12 A 230 cows that died and that calf crop would give you 207  
13 calves at 90 percent. They would have been born in '98.  
14 There would have been 207 yearlings that would have been  
15 born in '97. I got them valued at \$600. That's \$124,000.  
16 I subtracted the operating costs of 42,000 off of there,  
17 and it left 81,972. Then the CRP annual payment I added  
18 that on. That brought the damages up to 125,972.

19 Q For the Year 1998?

20 A Yes.

21 Q Are you saying that if the cash flow would have been  
22 made -- if the operating loan would have been made, then  
23 you wouldn't have suffered these damages?

24 A Right. I wouldn't have had any damages.

25 Q You used 90 percent calf crop. What was your experience

1 over the years?

2 A It had always been in that area.

3 Q Would you go to the next page, 1999, please?

4 A Yes.

5 Q Would you explain that, please?

6 A Okay. Now, it goes to 330 cows because a hundred -- a  
7 hundred head of heifers that I would have bought or calves  
8 that I would have bought would have been cows by then and,  
9 we would have had 297 calves. But I would have had 207  
10 yearlings at \$700 was 144,900. And I took off operating  
11 expense of 49,000 off of that. 49,266 leaves 95,300 --  
12 634. And I added that FSA payment of 23,000; I didn't get  
13 that. And then the use of the land that -- I charged for  
14 the use of the land that Maciejewskis and Pesickas was  
15 using, 65,000. Brought the total to 183,634 for '99.

16 Q The year 2000, please.

17 A That was the 300 -- and I'm not -- I'm not charging any  
18 damages on any of the cows that -- or anything that was  
19 left that I feed to the cows that died in the bad winter,  
20 the winter of '96, '97, when I didn't have any operating  
21 money. So I had the 330 cows and 90 percent would have  
22 been 297 calves. They would have been born in 2000. So I  
23 had 297 yearlings that were born in '99 at \$800. And by  
24 the way, I got sale barn advertisements out of the  
25 newspapers to back up on these figures. And I got



1 \$237,600 they would have brought. I took \$80,000  
2 operating expense off, leaves 156,000. And I didn't get  
3 the FSA payment of 23,000 again. So I added that on. And  
4 then I added the use of the land of 65,000 again. And it  
5 brings it to -- or brought it to \$244,814 for 2000 --  
6 19 -- or for 2000.

7 Q And would you go to 2001, please?

8 A Well, that's the same thing. 297 yearlings at \$800. It's  
9 \$237,600. I took off 34 percent operating expense of  
10 \$80,784, which left 156,816. I didn't get the FSA payment  
11 again. The use of the land I backed off to 55,000 because  
12 I did use some. I had a little package of cows out there.  
13 I just used it, the portion that I had in Parcel 2. So  
14 that left that at 234,816 for 2001.

15 Q And 2002, please.

16 A I had 330 cows at 90 percent calf crop would bring 297  
17 calves, so I figured in I sold the calves this here for  
18 \$420. It would be 138,600. Then I sold 297 yearlings at  
19 \$700 is \$207,900. I subtracted \$117,800 for operating  
20 expense. I didn't get the FSA payment again, and I backed  
21 off for the use of the land to 50,000, and I charged  
22 \$9,000 to replace some fences that Maciejewskis had torn  
23 out, and it left that damage at \$310,700 for this year.  
24 The summary of it is 1997, '98, '99, 2000, 2001, and 2002  
25 in damages comes to a \$1,314,990 without interest.

1 Q Let me stop you there. Did -- each year did you figure  
2 you sustained your losses as of a certain day of that  
3 year, for example, 1997?

4 A I -- the same dates for the sale of the cattle if that's  
5 what you mean.

6 Q Okay. And what date of the year?

7 A I used like the first week in September for selling  
8 yearlings.

9 Q And for '98?

10 A I went that way all the way through them.

11 Q So your particular loss date for each year is September --

12 A September, end of September.

13 Q Of each of the years?

14 A Yeah.

15 Q For example, September 1997, your loss would be the  
16 215,054 and so on.

17 A 215,054, yes.

18 Q That would be as of September 1997?

19 A Yeah.

20 Q Okay. As to the last paragraph then?

21 A In the last paragraph here the BIA claims that I owe them  
22 \$392,968.

23 MR. VON WALD: I will object to any more testimony on that as to  
24 the remaining portion of that exhibit.

25 THE COURT: Okay. I will grant that because I -- strike that

1 statement because it hasn't been established. That would  
2 be hearsay what the BIA claims that he owes. Disregard  
3 that statement, Jurors.

4 Q (BY MR. HURLEY) Would you go to the next page?

5 MR. VON WALD: I will object to any testimony regarding this as  
6 all being hearsay. Excuse me. Maybe not all of it. The  
7 first portion is for sure.

8 THE COURT: I'm not sure what --

9 MR. VON WALD: Couldn't you ask -- as far as him testifying  
10 what's on the exhibit, Your Honor, I would ask that  
11 opposing counsel ask questions and to establish what's on  
12 there but not for him to testify directly from the  
13 exhibit.

14 THE COURT: Okay. Ask questions about this particular part  
15 of this exhibit. I don't understand this.

16 MR. HURLEY: Okay.

17 THE COURT: Go ahead.

18 Q (BY MR. HURLEY) Do you have the page in front of you  
19 entitled notes and computations?

20 A Yes.

21 Q Were these your notes and computations relating to how you  
22 computed your damages?

23 A Yes.

24 THE COURT: Which damages?

25 MR. HURLEY: Pardon?

1 THE COURT: Which damages.

2 MR. HURLEY: Which damages?

3 THE COURT: Mr. Long's damages?

4 MR. HURLEY: You --

5 THE WITNESS: That's part of it, yes.

6 Q (BY MR. HURLEY) In other words, on the first part of the  
7 page entitled notes and computations, you used those  
8 computations to arrive at your use of the land damages  
9 because you've been denied the use of that land?

10 A Yes.

11 Q Okay. And as to the --

12 THE COURT: Well, let me just interject something. This all  
13 assumes he was living there rent free apparently. So none  
14 of these numbers have been calculated in that he ever  
15 bought the land, right? See, I don't want to -- I don't  
16 want the jury to (INAUDIBLE) but where are your  
17 calculations that you factored in that he eventually paid  
18 for the land? I just don't want you throwing out some  
19 numbers. I want to make sure that you don't confuse the  
20 jury.

21 MR. HURLEY: Okay.

22 THE COURT: So . . .

23 MR. HURLEY: If I may answer, the cash flow that Ronnie Long  
24 was depending on, the October cash flow, he needs.

25 THE COURT: Well, I'm not asking you. I'm just saying that's

1 a question I have in my mind.

2 MR. HURLEY: Okay.

3 THE COURT: And maybe the jurors do, too, because all of  
4 these numbers you look at the first two years' damages,  
5 they don't add up to what he owes on the land, so --

6 MR. HURLEY: Okay. Let me back up.

7 THE COURT: Why don't you go back and show the jury where he  
8 was going to be able to buy this land.

9 MR. HURLEY: Okay.

10 Q (BY MR. HURLEY) Ronnie, do you understand the Court's  
11 question? In other words, December 5<sup>th</sup>, 1996, you entered  
12 into an agreement with the Bank?

13 A Yes.

14 Q I think you've testified, but I want to take you through  
15 it again. If the Bank had performed its promises and made  
16 you the operating loan and the loan to buy the cattle,  
17 would that plan have worked?

18 A Yes.

19 Q How much money would you have had under the cash flow that  
20 everybody approved, which is Exhibit 8, you testified to  
21 earlier, how much money would you have had at the end of  
22 the two years, December 5<sup>th</sup>, 1998?

23 A It's that second year at the bottom.

24 Q Are you looking --

25 A 295,000.

1 Q Okay.

2 MR. VON WALD: Is that on a cash flow that --

3 THE COURT: See, that's the cash flow of October.

4 MR. VON WALD: That's the wrong cash flow, then, right?

5 MR. HURLEY: No. That's Ronnie's right one.

6 THE COURT: Okay. That's Ronnie's calculations in October.

7 Q (BY MR. HURLEY) Okay. And who helped you make those  
8 calculations?

9 A Dennis Huber, John Lemke, Harley Henderson helped, Jim  
10 Nielsen. I think Chuck might have even been on it.

11 Q Okay.

12 A These were all done. And the reason these were done is  
13 to -- to get part of the land agreement done, the lease  
14 purchase back and see if this would work, and that's where  
15 these cash flows derived from. Everybody was involved in  
16 them.

17 Q And everybody who was involved, did they agree in your  
18 presence that this cash flow would work and this plan  
19 would work, the deeding back of the land, the loan  
20 agreement, and the lease with option to purchase?

21 A Yes. Otherwise, it would have been futile to even try it.

22 Q Okay. Where would you get the money then to buy your land  
23 back from the Bank?

24 A Well, right there is 300,000.

25 Q Okay.

1 A And I had cattle. I had cows and yearlings.

2 Q At this point, December of 1998, how many cows did you  
3 have?

4 A For 1998, it would have been 360 cows, I believe.

5 Q And how many yearlings?

6 A It says up here. What does that say?

7 Q 8A?

8 A 8. That's 300 cows with 90 percent calf crop. I believe  
9 there was 360 yearlings.

10 Q Okay. What was the --

11 A Wait -- pardon?

12 Q Go ahead.

13 A That's what I would have had. I would have had 360  
14 yearlings and 300 cows and 300,000 in cash. If the Bank  
15 of Hoven wouldn't have wanted to go along with it, I could  
16 have found another financier to take it for that.

17 Q What price would you have to pay the Bank under the lease  
18 with option to purchase to buy your land back, how much  
19 money did you need?

20 A 468 -- 468,000. But then there would have been some  
21 deductions.

22 Q For what?

23 A They -- they would have deducted the CRP payments. They  
24 would have deducted --

25 Q How much was that?

1 A That \$82,000.

2 Q Pardon?

3 A It was \$82,000 on that contract but -- number 8?

4 Q Would you turn to Exhibit 7?

5 MR. VON WALD: It's 88,000.

6 THE WITNESS: 88.

7 Q (BY MR. HURLEY) Exhibit 7. Do you have Exhibit 7 there  
8 before you?

9 A Yes, I do.

10 Q Page two?

11 A Yes.

12 Q And your purchase price is set out in paragraph 8?

13 A Yes.

14 Q In what amount?

15 A \$468,000.

16 Q Okay. And we'll go to page three of Exhibit 7. And  
17 paragraph F, that's the credit you spoke of earlier?

18 A Yes.

19 Q Some 17,000 credit there for the little house?

20 A Yes.

21 Q Paragraph G the rent payments, right?

22 A The range payments.

23 Q How much was the CRP payment each year?

24 A 44,000.

25 Q And how many of them were there?



1 A Two.

2 Q So what was your credit under CRP?

3 A 88,000.

4 Q So you would have a credit off of 468 purchase price of  
5 roughly 17,000 --

6 A On the house.

7 Q And 88,000?

8 A Yes.

9 Q And then you would have to pay under Exhibit C some  
10 interest on the unpaid balance, correct?

11 A Correct. 8 and a half percent.

12 Q So where would that money come from to pay to the Bank to  
13 buy your land back?

14 A It came from the cattle and the farming.

15 Q Okay. And is it your experience with 50 percent cash you  
16 could find a bank that would go the other 50 percent to  
17 buy your land back?

18 A Yes.

19 Q And 50 percent would be some place in the 225,000 range,  
20 correct?

21 A Correct.

22 Q And were you prevented from performing everything you  
23 needed to do on the ranch to generate the money necessary  
24 to buy your land back?

25 A Yes.

1 Q Why?

2 A Because the second part of the contract wasn't honored. I  
3 didn't get no operating and -- and my money to buy the  
4 cattle.

5 Q Okay.

6 A I couldn't -- I couldn't generate enough money then.

7 Q And yet at the end of two years then, you didn't have the  
8 money to buy your land back?

9 A No.

10 Q Where you weren't given the operating loan by the Bank as  
11 promised and you weren't given the money to buy the cattle  
12 as promised, should the two years have even started to run  
13 in your opinion?

14 A No. The only thing that happened in the contract is the  
15 land was taken.

16 MR. HURLEY: May we approach, Your Honor?

17 THE COURT: Yes.

18 (INAUDIBLE, WHISPERED DISCUSSION  
19 WAS HAD OUT OF THE HEARING OF THE  
20 TAPE RECORDER.)

21 MR. HURLEY: No further questions, tender to cross.

22 THE COURT: Okay. Cross-examination.

23 CROSS-EXAMINATION

24 BY MR. VON WALD

25 Q Let's work from the back here a little bit. There has

1           been testimony about some damages, and you have not been  
2           able to get enough money to operate and so forth. Talking  
3           about damages now, you had mentioned that cash flow  
4           that -- not actually this cash flow that's -- where did it  
5           disappear to?

6 MR. VON WALD:       Where is it, Your Honor?

7 THE COURT:         It was --

8 MR. HURLEY:        8A is --

9 UNIDENTIFIED:      On the floor there.

10 MR. VON WALD:      So we don't confuse the jury, this is 8A, right?

11 MR. HURLEY:        Yes.

12 Q       (BY MR. VON WALD) Okay. This is 8A. And this cash flow  
13       was never agreed to by the Bank or the BIA or anybody,  
14       right?

15 A       Oh, yeah.

16 Q       It was? Was that part of that loan agreement?

17 A       That's in this part of -- I don't know if it was part of  
18       the loan agreement. It was worked up before the loan  
19       agreement, you know, it was done in end of October. And  
20       like I said earlier, these discussions started in April.

21 Q       Right. I understand that. But the loan agreement that  
22       was sent in with the letter to us and McClure on  
23       December 12<sup>th</sup> of 1996, requesting the increase in the BIA  
24       guaranteed loans to be restructured, the interest that you  
25       owed on of about 70 grand, interest and principal, and the

1 \$85,000 line of credit request attached to that letter was  
2 not these things was it, just so we don't confuse the  
3 jury?

4 A I don't know what you sent into Russell McClure.

5 Q Well -- but we've got something in Exhibit 8, the letter  
6 that was sent into Russell McClure, just so -- and I'm  
7 trying to point this out to the jury, so we don't confuse  
8 them. The request that was made does not include these  
9 two cash flows, did it?

10 A I don't know. I honestly can't tell you if it was or not.

11 Q Do you have Exhibit 8 sitting in front of you?

12 THE COURT: The amended version? Do you want to use mine?

13 MR. VON WALD: Yes, please. (INAUDIBLE).

14 THE COURT: (INAUDIBLE).

15 Q (BY MR. VON WALD) You have Exhibit A sitting in front of  
16 you; is that correct?

17 A Yes.

18 Q Okay. Get to the three cash flows that are included on  
19 Exhibit A.

20 MR. HURLEY: He doesn't have that.

21 THE COURT: You've got the amended version. You're going to  
22 have to show him.

23 Q (BY MR. VON WALD) It appears that three cash flows that  
24 are entered into evidence that you have is not -- excuse  
25 me -- it is entered into evidence as 8A but not 8. You

1 look at that cash flow for the first year. Do you see  
2 that, Ronnie?

3 A Yes, I do.

4 Q And can you see where that was sent from? Look on the  
5 side where it was faxed from.

6 A 12-11 from the Chairman's Office.

7 Q And the date that it was sent?

8 A 12-11.

9 Q 12-11 of '96?

10 A Yes.

11 Q And it was sent from the Chairman's Office?

12 A Of '96 or '98, yes.

13 Q '96. Okay. And the letter that -- that Jim Nielsen sent  
14 that's a part of the first page of the exhibit was sent on  
15 December 12<sup>th</sup> of 1996, right?

16 A Yes.

17 Q Okay. Or it's dated that way anyway, right?

18 A Right.

19 Q Okay. And if you look at that cash flow that was prepared  
20 there?

21 A Yes.

22 Q Look at the bottom line, where there's a negative on the  
23 bottom line there?

24 A Yes.

25 Q The largest negative you see is how much on the bottom

1 line in that first exhibit?

2 A 77,000 -- 80,000.

3 Q 84,000, isn't it?

4 A Right, 84. Yes.

5 Q \$84,477, right?

6 A The eighth month.

7 Q The eighth month. So what that indicates is with that  
8 particular cash flow, you would have needed \$85,000 in  
9 order to break-even because you have a loss -- you have a  
10 minus balance of 84,000 on the eighth month, right?

11 A According to this cash flow.

12 Q Yes. And that cash flow is the one that was sent from the  
13 Chairman's Office, did not originate from the Bank of  
14 Hoven, but was sent from the Chairman's Office on  
15 December 11<sup>th</sup>, right?

16 A Who made it?

17 Q Who makes them over at the Chairman's Office?

18 A I don't know who made it.

19 Q Well, isn't that where Ronnie -- John Lemke works?

20 A He did, yes.

21 Q Were you over there then?

22 A I don't know if I was over there at this date.

23 Q Well, when John Lemke would make out cash flows, wouldn't  
24 he talk to you about what figures to put in?

25 A I don't know. I don't know these cash flows. That's all

L

1 I can say.

2 Q Well, do you see on there that there -- that there's --  
3 with this particular cash flow, does it mention the  
4 payment on that cash flow at all of the \$44,000 to the  
5 Bank of Hoven, income and expense?

6 A It's got 44,168 up on cash beginning.

7 Q Okay. And subsidy and CRP there is money coming in it  
8 says of 44,168, right?

9 A Yeah.

10 Q And if you look down where it says other disbursements,  
11 right down here?

12 A Yes.

13 Q What does it show there?

14 A BIA --

15 Q Lease purchase -- does it mention lease purchase option  
16 with Bank, 44,168 as a payoff then?

17 A Yes, it does.

18 Q Okay. Does that mention -- is that mentioned anyplace at  
19 all here on this exhibit?

20 A Yeah.

21 Q Where?

22 A This 44,000 up -- in the same place on the cash beginning.

23 Q Okay. 44,000 in, right?

24 A Then you go down to the -- you go down to the 96,000.

25 Q Right here?

- 1 A Below that. Right, what's that number?
- 2 Q 96,000?
- 3 A Yeah.
- 4 Q That's what that is, 96,000. My point is, Ron, that this  
5 particular cash flow doesn't indicate at all that there is  
6 a payment out to the Bank of 44,000, does it?
- 7 A Well, it's added in with the 62,5 cash advancement.  
8 That's how you got your 96,000 there. If you add them two  
9 together, I think it comes up to --
- 10 Q This says livestock purchase 96,000?
- 11 A Yeah.
- 12 Q Right?
- 13 A Yeah.
- 14 Q That wouldn't be a payment to the Bank, would it?
- 15 A Let me see.
- 16 Q Well, I don't mean to confuse you, but this is just not  
17 the cash flow that was agreed.
- 18 A Well, I don't know where this cash flow came from,  
19 but . . .
- 20 Q At any rate, Exhibit 8 does indicate that there is a  
21 payment to the Bank of Hoven for the 44,000, right?
- 22 A Yup.
- 23 Q And on that particular exhibit it mentions with lease with  
24 option to purchase, doesn't it?
- 25 A Yes.



1 Q And this exhibit here, the 8A that you've got, does not,  
2 does it?

3 A No.

4 Q So 8A was probably entered into -- or penciled out or  
5 whatever before the agreement was made on December 5<sup>th</sup>,  
6 wasn't it?

7 A I believe it has the 70,000 line of credit in there, and  
8 it's got the -- the 37,500 to buy the 110 calves, so  
9 that's all in there.

10 Q So some of those things were the same, but what I'm  
11 getting at is as far as the \$44,000 in and \$44,000 out  
12 doesn't show there, does it?

13 A It just don't say it here.

14 Q On that one?

15 A On this one. It just isn't written out.

16 Q Okay. Can you see on there then on that exhibit, why it  
17 is that the Bank requested an \$85,000 line of credit?

18 A Yes.

19 Q Because that exhibit shows that you would have needed that  
20 to operate the first year, right?

21 A Right.

22 Q And they did that in the letter, didn't they, of  
23 December 5<sup>th</sup> of 1996? That \$85,000 line of credit was in  
24 there, guaranteed line of credit for 85,000?

25 A It was 70,000 in the contract.

1 (END OF DUPLICATE #4 TAPE #1.)

2 (THE FOLLOWING PROCEEDINGS

3 TOOK PLACE ON DUPLICATE #4 TAPE #2:)

4 Q On the contract. But when they actually -- when they  
5 actual -- the contract was entered into on December 5<sup>th</sup>,  
6 right?

7 A Right.

8 Q And when they got the cash flow -- and that's dated  
9 December 11<sup>th</sup> -- that would be the 85,000, right?

10 A According to this cash flow.

11 Q That's right. And that was sent from the Tribal Office --  
12 or the Chairman's Office over here, right?

13 A Right. But I don't know who done it.

14 Q I don't either. But in order to send a cash flow into the  
15 BIA, and it showed that you needed \$85,000 worth of money  
16 and you would have applied for 70,000 wouldn't the BIA  
17 say, hey, wait a minute. This is no good, this cash flow.  
18 You're cutting me 15,000 short?

19 A If that's the way this was sent in, yes.

20 Q Yeah. Okay. You also mentioned that the Pesickas -- you  
21 just recently testified that the Pesickas or Pesickas  
22 bought two quarters of land?

23 A Yes.

24 Q And they paid about -- he paid about how much?

25 A \$155 an acre.

1 Q And what kind of ground was that?

2 A It was grassland.

3 Q Okay. And what was the bulk of the land that you had,  
4 that you didn't have that Kenneth Long had?

5 A It was farm ground, but the land that the Pesickas got is  
6 classified as farm ground under the tax base.

7 Q But it's grassland, right?

8 A Yes.

9 Q Used for grass? Okay. And you testified that in the  
10 contract the Bank entered into with Ed Maciejewski, they  
11 were only going to charge him 7.35 -- 7.75 percent  
12 interest?

13 A Yes.

14 Q And with you they were going to charge 8.5?

15 A Yes.

16 Q So they were going to charge you about three-quarters of a  
17 percent more?

18 A Yes.

19 Q And, of course, the contract that they entered into with  
20 you, with the lease with option to purchase, that was two  
21 years before the contract with Ed Maciejewski, wasn't it?

22 A Yeah.

23 Q Did the interest rate change in that two-year period?

24 A I don't know.

25 Q It may have, right?

1 A May have.

2 Q Okay. You also testified that -- you've been testifying  
3 that the Bank didn't give you any operating money for  
4 those cattle in the winter months of 1996, '97, right?

5 A Right.

6 Q But you have an exhibit --

7 MR. VON WALD: I think we admitted that exhibit, right?

8 THE COURT: Yes. I think it's --

9 MR. HURLEY: 22.

10 Q (BY MR. VON WALD) You have an exhibit that shows that on  
11 December 10<sup>th</sup> of '96, they loaned you 16,000, right, and  
12 some odd dollars?

13 A For past due leases, yeah.

14 Q Yeah. And so those are past due leases, that's for the  
15 leases for the '97 year, isn't it?

16 A That was due in the end of October of '96.

17 Q Right. But they are for the use of the land for the year  
18 1997, right?

19 A Yeah.

20 Q They are prepaid leases?

21 A Yeah.

22 Q And the Bank was afraid you were going to lose those  
23 leases, so they loaned you the money, didn't they?

24 A They loaned me the money.

25 Q Yeah. And that was not -- they didn't have any operating

1 line of credit or any guarantee or anything; that's direct  
2 money from the Bank, right?

3 A They had a new note.

4 Q That's a new note, okay. And you were also in --  
5 apparently in January -- excuse me. December 14<sup>th</sup> you  
6 were in and you got a note from them, right?

7 A Yeah.

8 Q A \$5,000 note?

9 A Yes.

10 Q Line of credit? And you said that it's bad out there; you  
11 needed a snowmobile?

12 A No. That was for 2500 -- \$2250.

13 Q Right. But isn't that what you told them that you can't  
14 get to the cattle?

15 A That it's bad.

16 Q And you needed a snowmobile?

17 A Yes.

18 Q And -- but they loaned you the money for that, right?

19 A Yeah. For a used snowmobile.

20 Q And they loaned you the \$5,000, right?

21 A Yeah.

22 Q How much would have it cost you to take your hay from home  
23 and haul it out there?

24 A Probably \$20,000.

25 Q \$20,000 to haul the hay out there?

- 1 A Yeah.
- 2 Q Wow.
- 3 A They had to move --
- 4 Q How much would have it cost you --
- 5 A 1400 ton takes a lot of loads.
- 6 Q What, would you have had to haul it all out there?
- 7 A That's where the cattle were.
- 8 Q I understand that. Did you plan on feeding 1400 ton?
- 9 A That's where I was going to haul the hay.
- 10 Q Did you plan on feeding that -- that amount to them?
- 11 A Well, yeah. If I needed it, it was there. I wouldn't
- 12 have had to feed it all.
- 13 Q I understand that.
- 14 A But that's where I was going to haul it.
- 15 Q But to haul one load out there, how much would it have
- 16 cost?
- 17 A Well --
- 18 Q Well, it's 18 miles?
- 19 A Yeah.
- 20 Q And as far as I ever knew stack movers would maybe charge
- 21 a couple hundred bucks to move a stack?
- 22 A Well, you just can't get a stack mover just like this.
- 23 You got to wait in line. You got to -- and beside that,
- 24 12-14 the snows have already started.
- 25 Q I understand the snows have started. I understand that.

1 But what I'm saying is that you said the road was open,  
2 right? On the 13<sup>th</sup> you were able to get out there?

3 A Yeah.

4 Q And a stack mover would have cost, what, maybe 250 bucks a  
5 load at the most?

6 A Well, if you could get them. But you can't get the money  
7 today and come home and find a stack mover and just go to  
8 hauling hay. It don't work that way.

9 Q Why didn't you have that haul out of there before --  
10 hauled out before then?

11 A When I asked Jim Nielsen for some money to move my hay and  
12 stuff, he said you aren't getting a dime until we get the  
13 deed to this land.

14 Q When did you -- when did you normally haul your hay out  
15 there?

16 A Like in October.

17 Q September and October is what you told me before, right?

18 A Yeah.

19 Q Okay. And in September did you have a bunch of money?

20 A I don't think so.

21 Q Well, do you remember selling your calves in November --  
22 in September?

23 A Them yearlings?

24 Q Yeah.

25 A The money all went to repay notes.

1 Q Do you remember in September of 1996, September 20<sup>th</sup> of  
2 1996, where you had sold 190 yearlings for \$84,000--some  
3 odd dollars?

4 A Yeah.

5 Q And you had sold 59 yearlings for 21,900--some bucks?

6 A Yes.

7 Q Okay. And you had already borrowed 62,500 from Herman  
8 Schumacher so that you had hauled those cattle to his sale  
9 barn, right?

10 A No. That wasn't the reason why, but --

11 Q Well, he gave you an advance of 62,500?

12 A Yes.

13 Q During of summer of '96?

14 A And I paid it to the Bank.

15 Q Did he give you that advance?

16 A Yes.

17 Q Okay. And you had to pay that advance back, didn't you?

18 A Yeah.

19 Q And when you paid that advance back of 62,500 was all of  
20 that paid to the Bank then?

21 A Pretty much, except for some little other stuff. I can't  
22 remember all --

23 Q Except for about 30,000, right?

24 A I don't know, I guess. I --

25 MR. VON WALD: Why don't we mark this exhibit.



- 1 THE COURT: All right. Mark that as Defendant's 1.
- 2 MR. VON WALD: I wonder if I could run and get a stapler, Your  
3 Honor, so it's easier (INAUDIBLE).
- 4 THE COURT: Sure. Dale, could --
- 5 THE CLERK: I can go and get one.
- 6 THE COURT: Dale will run and get you one. You can go ahead  
7 ask questions while you're waiting for the stapler.
- 8 MR. HURLEY: Does it matter which color?
- 9 THE COURT: He wanted a stapler.
- 10 MR. HURLEY: Oh, I'm sorry. I thought he said sticker.
- 11 THE COURT: You wanted a stapler, right?
- 12 MR. VON WALD: Stapler, yes.
- 13 MR. HURLEY: Okay. Hold on, I've got that. Maybe.
- 14 MR. VON WALD: You've come prepared.
- 15 MR. HURLEY: I was a boy scout.
- 16 Q (BY MR. VON WALD) Looking at this -- these comment  
17 sheets, have you ever seen those before?
- 18 A Yes.
- 19 Q And those are comment sheets that come from the Bank  
20 records?
- 21 A Um-hum.
- 22 MR. VON WALD: I will offer the copy of the exhibit.
- 23 THE COURT: Any objection, Jim? Have you seen the exhibit?
- 24 MR. HURLEY: Just let me take -- take a look at it.
- 25 THE COURT: (INAUDIBLE). We got one, Dale.

1 THE CLERK: Oh, did you?

2 THE COURT: Thank you anyway.

3 THE CLERK: Oh, okay.

4 MR. HURLEY: Is this the same one in the deposition?

5 MR. VON WALD: Yeah.

6 MR. HURLEY: No objection.

7 THE COURT: All right. That will be admitted as Defendant's

8 Exhibit 1. And again, Jurors, you will be able to look at  
9 this during deliberations.

10 Q (BY MR. VON WALD) Okay. Do you see on these comment  
11 sheets, Ronnie, on 9-20 of '96, that would be  
12 September 20<sup>th</sup> of 1996, where they have a comment in there  
13 that you sold 190 head and 59 head?

14 A Yes.

15 Q And the total of it -- of the sale price was what there,  
16 could you tell the jury?

17 A 84,230.

18 Q 84,000 for the 190 head?

19 A Yes.

20 Q And how much for the 59 head?

21 A 21,000 -- \$21,962.

22 Q And then there is a comment that you paid Herman  
23 Schumacher back \$62,500, is the money that you had  
24 borrowed from him earlier that year?

25 A Um-hum. Yes.

1 Q And where did you sell those cattle? By the way who is  
2 Herman Schumacher?

3 A He owns Herreid sale barn.

4 Q Okay. Where did you sell those cattle then?

5 A At the Herreid sale barn.

6 Q Okay. And what does it show that the Bank did with the  
7 rest of the money?

8 A Just -- we paid bills, a lot of bills.

9 Q Didn't it say that you paid --

10 A 62,5.

11 MR. HURLEY: Excuse me. Can I look at it just a second?

12 A 9,000 miscellaneous.

13 Q (BY MR. VON WALD) All right. It says, with Ronnie  
14 receiving 9,000 to pay miscellaneous expenses, and then  
15 there was \$21,000, and it says use this money to pay  
16 bills, larger bills including 3400 and so forth?

17 A Yes.

18 Q Is that correct?

19 A Yup.

20 Q And now, so the Bank allowed you 21,000 plus 9,000, 30,000  
21 bucks to pay bills, didn't they, in September,  
22 September 20<sup>th</sup> of 1996, right?

23 A Well, to pay certain bills, yes.

24 Q Okay.

25 A Every one of these bills was -- was -- had to be signed

1 off on. This wasn't just an open -- open account deal.

2 Q I understand that. When you paid those bills, they -- my  
3 point is that they allowed you \$30,000 to pay bills. Why  
4 didn't you take some that have money to move the hay down  
5 to the cattle then?

6 A Because like this \$7200 at the Eureka Cenex outfit for  
7 feed, they were taking me to court because I hadn't paid  
8 them.

9 Q Okay. But --

10 A There was a lot of bills like that. I had people -- I had  
11 been operating off of mainstay credit. Them bills had to  
12 be paid.

13 Q Right. But you had to save your cattle, right?

14 A Yeah.

15 Q And your cattle needed feed; you knew that, right?

16 A Well, we didn't -- we figured this other contract was  
17 going to take care of that.

18 Q This was in September now we're talking about, right?

19 A Well, we talked about this contract in April, August,  
20 November.

21 Q At any rate -- well, turn around there. Were there other  
22 advances that the Bank paid after 10-10 of '96?

23 A Yes.

24 Q They made more advances to you, didn't they?

25 A Yeah.

1 Q So why didn't you take some that of money and move the  
2 hay?

3 A Well, I paid these bills for one thing. 7700 bull rental.

4 Q How much?

5 A \$7700.

6 Q That would have moved a lot of hay, wouldn't it have?

7 A Yeah. But I got to pay the guy for bulls.

8 Q Yeah. That you had used last spring?

9 A Yeah. He had already used them last spring, and he was  
10 waiting for his money that fall yet.

11 Q Yeah.

12 A So I had to pay him.

13 Q My point is, if you would have chosen, you could have, if  
14 you would have wanted to, move the hay, right? You had  
15 money available to do that?

16 A Well, I had money, but it wasn't released for that either.  
17 It was to pay these bills with.

18 Q Did the Bank even know that your hay wasn't at the same  
19 place that your cattle was?

20 A Oh, yeah.

21 Q Was that your normal practice, that you kept your cattle  
22 down in the breaks and your hay some place else?

23 A Well, we usually winter down in the breaks and put up hay  
24 up on the flat.

25 Q Now, you had some hay down in the breaks, right?

1 A Yes. I had about 150 bales down there.

2 Q Okay. And so you went down there on occasion and fed them  
3 then?

4 A Yes.

5 Q And did you -- did your cattle stay there all the way  
6 through, that whole bad winter?

7 A Until I got plowed out in February.

8 Q So you moved them out of there in February then?

9 A Yeah. After I finally got plowed out.

10 Q And apparently, you know, when you testified earlier --  
11 excuse me -- this exhibit is --

12 THE COURT: (INAUDIBLE). That's been admitted into the  
13 record.

14 MR. VON WALD: Yes.

15 Q (BY MR. VON WALD) You testified earlier that -- that, you  
16 know, that you didn't have any money to hire trucks,  
17 right?

18 A Um-hum.

19 Q But in the letter that you wrote on February 18 to the  
20 Bank, you said you had trucks lined up three times?

21 A Right. To haul cattle after we got in a bind.

22 Q So those guys didn't do it then, right?

23 A Yeah. But they was going to haul what I had left home,  
24 yes.

25 Q 150 head?

1 A Total, you know.

2 Q I thought you were talking about you had trucks lined up  
3 three times to --

4 A To haul them. Right, to haul the cattle. But it kept  
5 storming in.

6 Q Okay.

7 A Yes.

8 Q So those truckers would have hauled them had the weather  
9 not been so bad, right?

10 A Yes.

11 Q And actually, that was the worst winter that you've ever  
12 seen, isn't it?

13 A It was a bad winter, yes.

14 Q It was the worst winter you've ever seen, isn't it?

15 A I don't -- yeah. It treated me bad, yes.

16 Q Um-hum. There was more snow that winter than any other  
17 time in the last century, wasn't there?

18 A I don't know.

19 Q Well, how much snow did you have out there, Ronnie?

20 A I don't know.

21 Q I mean wasn't it like three feet or better?

22 A I'm sure there was three feet of snow. There was a lot of  
23 snow. I'm not denying that.

24 Q And that's why -- that's why the tribal snow removal  
25 outfits just couldn't get there. There was so much snow

1 they couldn't keep up with it, could they?

2 A There was too many places to go to was the problem.

3 Q That's right. It was a disaster, wasn't it?

4 A Yeah, it was a disaster.

5 Q And it wasn't just a disaster for you. There were a  
6 number of other people that lost cattle, right?

7 A Yes, there was people that lost cattle.

8 Q A number of other people, right?

9 A I guess. I don't know. I didn't -- I don't make it a  
10 habit of getting into people's business.

11 Q But didn't you hear that there were a number of cattle  
12 lost?

13 A Yeah. I said there was a lot of people -- there was a lot  
14 of people that had losses.

15 Q And most of the cattle that were lost were West River  
16 cattle because they were in breaks; isn't that right?

17 A I don't know. I can't answer that.

18 Q I mean that would be normally, during a normal winter,  
19 would be a good place to keep them. But that winter just  
20 didn't work, did it?

21 A I can't answer that. It -- I know if I would have had my  
22 hay there, I wouldn't have lost many cattle.

23 Q Well, you couldn't get out to feed them you said, right?

24 A I wouldn't have had to. I could have opened the hay  
25 corral gates. They would have made it.



1 Q Okay. And how about the ones that drifted out, you said,  
2 on the -- I think it was January 15<sup>th</sup> in your letter  
3 there?

4 A Yeah.

5 Q And they all drifted out, and that's when you lost just  
6 about all of them?

7 A Yes.

8 Q And that was because they had wind chill factors, you  
9 said, from 60 to 80 degrees below zero?

10 A Yes.

11 Q So wouldn't those same wind chill factors have been there  
12 whether you had hay or not?

13 A If they would have had hay in them, they would have been  
14 warm. They would have stayed there.

15 Q The fact is that you didn't have the hay there, and you  
16 had money in September to put it there, and you didn't.  
17 Isn't that a fact?

18 A I didn't have money authorized to move hay in September.

19 Q Did you even ask anybody to move that hay, any -- did you  
20 even ask anybody?

21 A After I paid all of my bills, I didn't have much money  
22 left.

23 Q My question is, Ronnie: Did you ask anybody if they would  
24 move the hay down there for you?

25 A Not at that time, no.

1 Q You didn't? Now let's go back a little bit more to some  
2 of your other testimony, and you mentioned that your  
3 brothers and one sister signed off their interest in your  
4 Dad's estate?

5 A Yes.

6 Q And when they signed off their interest in their Dad's  
7 estate to you, that was done by documents that are now  
8 into evidence?

9 A Yes.

10 Q And you said that's when you received the real estate?

11 A No. That's not when I received the real estate.

12 Q You never did receive that --

13 A I received the real estate out of Dad's will.

14 Q That's what I was talking about. With your Dad's will, it  
15 said that everything was to go to the four of you, right?

16 A Yes.

17 Q Except for the house in Timber Lake?

18 A Yes.

19 Q And the house in Timber Lake was to go to who?

20 A His wife -- his second wife.

21 Q Paulette?

22 A Paulette.

23 Q And Paulette was appointed as personal representative,  
24 wasn't she?

25 A Yes.

1 Q And that house also was deeded over to the Bank of Hoven,  
2 wasn't it?

3 A Yes.

4 Q So the house and the land, right?

5 A Yes.

6 Q And -- so basically, Paulette gave up her interest in that  
7 house, didn't she?

8 A Yes.

9 Q And the reason for that was that Long Family Land and  
10 Cattle Company, Inc., when your Dad died, owed the Bank of  
11 Hoven in the neighborhood of \$750,000, right?

12 A Correct.

13 Q And the value of the land you said was about 468,000,  
14 right?

15 A Correct.

16 Q And the value of the house was about 30,000?

17 A Correct.

18 Q So the value of those two things put together were in the  
19 neighborhood of \$498,000 or thereabouts, correct?

20 A Correct.

21 Q And -- and so the -- the debt that Long Family Land and  
22 Cattle Company, Inc., had was in excess of that, right? I  
23 mean he owed more than what Kenneth had, right?

24 A Well, no. He had 49 shares in the corporation.

25 Q I understand that.

1 A Getting into --

2 Q But I'm talking about the value of the house and the value  
3 of the land.

4 MR. HURLEY: May we approach, Your Honor?

5 THE COURT: You may.

6 (OFF-THE-RECORD WHISPERED  
7 DISCUSSION WAS HAD OUT OF THE  
8 HEARING OF THE TAPE RECORDER.)

9 Q (BY MR. VON WALD) So the land was never deeded to you,  
10 was it?

11 A Yes.

12 Q Oh, the land was deeded to you?

13 A A share of it.

14 Q Did you receive -- the land was in Kenneth's estate?

15 A It was willed to us.

16 Q Right. The land was in Kenneth's estate, and once it's in  
17 his estate, once he is deceased, the only way the land can  
18 come out of there is either by a court order or a deed?

19 MR. HURLEY: Objection. That calls for a legal conclusion,  
20 Your Honor.

21 THE COURT: Yeah. I don't know if he would know that. So I  
22 will sustain that.

23 Q (BY MR. VON WALD) Do you -- did you receive a deed from  
24 the estate?

25 A No.

1 Q The only deed that anyone received from the estate was the  
2 Bank of Hoven, right?

3 A As far as I know.

4 Q Okay. And the first deed that the Bank of Hoven received,  
5 the first personal representative's deed, was in September  
6 of 1996, wasn't it?

7 A I think there was a deed, yeah.

8 MR. VON WALD: Do you have a bunch of stickers?

9 (OFF-THE-RECORD WHISPERED  
10 DISCUSSION WAS HAD OUT OF THE  
11 HEARING OF THE TAPE RECORDER.)

12 Q (BY MR. VON WALD) (INAUDIBLE). I hand you now what has  
13 been marked as Defendant's Exhibit 2, and would you  
14 explain to the Court what that is?

15 MR. HURLEY: Your Honor, may we approach?

16 THE COURT: You may.

17 (OFF-THE-RECORD WHISPERED  
18 DISCUSSION WAS HAD OUT OF THE  
19 HEARING OF THE TAPE RECORDER.)

20 MR. VON WALD: Okay. I would offer the exhibit.

21 MR. HURLEY: No objection.

22 THE COURT: All right. And which -- we're supplementing  
23 which exhibit?

24 MR. HURLEY: 9.

25 MR. VON WALD: We're supplementing Exhibit 9, I believe it is.

1 MR. HURLEY: Exhibit 9.

2 THE COURT: Okay. That will be admitted into the record just  
3 to supplement the exhibit.

4 MR. VON WALD: 9 -- it's not 9.

5 THE COURT: This is an agreement with option -- lease with  
6 option to purchase.

7 MR. VON WALD: Yeah.

8 THE COURT: (INAUDIBLE).

9 MR. HURLEY: And that's 6.

10 THE COURT: And the jurors knew it was 6.

11 MR. HURLEY: That's 6.

12 THE COURT: So they're obviously paying attention anyway.  
13 They know more than us.

14 Q (BY MR. VON WALD) Okay. I will hand you now what has  
15 been marked as Defendant's Exhibit 2, and could you  
16 explain to the jury what that is?

17 A It's a personal representative's deed.

18 Q And that deed was dated when?

19 A The September 14<sup>th</sup> of '96.

20 Q Okay. And -- and when it was filed with the Register of  
21 Deeds was when?

22 A November -- the 5th day of November of '96.

23 Q Okay. And Exhibit 6, would you turn to that, please?

24 THE COURT: Actually, 6 is the loan agreement. 7 is the  
25 lease with option to purchase. Just so you understand

1 that.

2 Q (BY MR. VON WALD) Exhibit 7 then turn to, which is the  
3 lease with option to purchase.

4 A Okay.

5 Q And in there it does mention that the Bank had been deeded  
6 the land; is that correct?

7 MR. HURLEY: No. It's 6.

8 A The 5th day of December that --

9 MR. HURLEY: I think it's 6.

10 THE COURT: 6, actually. The jury is right. It's Exhibit 6.  
11 The loan agreement references -- Jurors, this document  
12 is -- is the deed that's referred to in Exhibit 6, which I  
13 know you haven't seen that -- well, you saw part of it.  
14 Well, you did, actually. There it is.

15 THE JURY: (INAUDIBLE).

16 THE COURT: Say, these jurors are on the ball over there.  
17 That is the deed that's referenced in this loan document,  
18 Exhibit 2, Defendant's.

19 MR. VON WALD: Yeah.

20 MR. HURLEY: That makes it easier.

21 Q (BY MR. VON WALD) The Bank of Hoven has received the deed  
22 to the property described in Exhibit A, and the deed that  
23 we received would have been on September of 1996, right?

24 A Correct.

25 Q Okay.

1 THE COURT: I assume, Dale, you have the original exhibit  
2 there, right?

3 THE CLERK: Yeah.

4 THE COURT: Remind me to make sure that I add these to the  
5 original. Just for counsel's information, these jurors  
6 have been here since 8. So I'm going to break at 4:30,  
7 since it's Friday.

8 MR. VON WALD: Okay.

9 THE COURT: So . . .

10 Q (BY MR. VON WALD) Exhibit 8, do you have that? I have a  
11 comment here on that.

12 A This one?

13 Q 8A, yeah.

14 (INAUDIBLE DISCUSSION AS TO THE  
15 EXHIBITS).

16 MR. VON WALD: Okay.

17 Q (BY MR. VON WALD) Now on this exhibit, Ronnie, the  
18 415,000, you mentioned was interest and principal. What  
19 was this 415,000 that you testified to about before? Do  
20 you remember?

21 A That was 300 -- what is it, 334,000 (INAUDIBLE). Anyway,  
22 334,000. The \$70,000 line of credit is already added onto  
23 that 415,000.

24 Q Well, are you sure that's what it is here? Or could it be  
25 interest added onto it that makes it 415,000?



1 A I don't know.

2 Q Okay.

3 A But 70,000, I believe.

4 Q Okay. Ronnie, in April of 1997, after you had had the  
5 blizzard and so forth?

6 A Yeah.

7 Q In April of 1997, you were actually given an operating  
8 line of credit, weren't you?

9 A \$40,000.

10 Q \$40,595, right?

11 A Yes. And I paid off the 23,000 that was borrowed after  
12 December 5.

13 Q Right. And the rest of it was for operating?

14 A Um-hum.

15 Q Okay. And you were also -- the loan was also  
16 restructured, right? The BIA guaranteed loans, weren't  
17 they restructured?

18 A Yup.

19 MR. VON WALD: (INAUDIBLE).

20 THE COURT: Do you have any more exhibits? Just mark them  
21 yourself.

22 MR. VON WALD: No. 3.

23 THE COURT: Okay.

24 Q (BY MR. VON WALD) Okay. Now, Ronnie, I'm going to hand  
25 you what has been marked as Defendant's Exhibits 4, 5 --

1 3, 4, and 5.

2 A Okay.

3 Q Can you describe for the jury what those things are?

4 A These are -- are notes, security.

5 Q They're notes that you've signed to the Bank of Hoven?

6 A Yes.

7 Q And you signed all of those, right, the Long Family Land  
8 and Cattle Company, Inc.?

9 A Yes.

10 Q And note No. 3, what's the amount of that note?

11 A \$40,595.

12 Q Okay. And does it say on that what that's for, on the  
13 bottom?

14 A For operating -- managing and operating.

15 Q Okay. And when is the due date of that note?

16 A November 1<sup>st</sup> of '97.

17 Q Okay. So it was due that fall then, right?

18 A Yes.

19 Q Okay. And let's look at the second note. That would be  
20 Exhibit No. 4.

21 A Okay.

22 Q And what is that note?

23 A \$420,515.

24 Q \$420,515?

25 A Yes.

1 Q And what does it mention that that one was for?

2 A That's a reschedule of BIA guaranteed notes.

3 Q A reschedule of the BIA guaranteed notes?

4 A Yes.

5 Q And that, of course, was done in April, April 1<sup>st</sup> of 1997,  
6 right?

7 A Right.

8 Q And --- and is this the note that that's rescheduling then  
9 the \$415,000 over 20 years?

10 A What's the due date here? 2016.

11 Q What does it say it's a renewal off, Ron?

12 A The 98181 note.

13 Q So it says it's a renewal of note 98181, right?

14 A Yes.

15 Q And it's for about 420,000?

16 A Yes.

17 Q Instead of 415,000?

18 A Right.

19 Q And, of course, this letter was dated December, and that  
20 is about five months later, right?

21 A Yes.

22 Q So there would have been more interest on the -- the  
23 principal, wouldn't there have?

24 A Yes.

25 Q Okay. And so that note has been rescheduled then, just

1 like that was requested, that was rescheduled, wasn't it?

2 A Right.

3 Q And by rescheduling it, what happened? You didn't have to  
4 pay the interest on the note at that time, did you, at  
5 that time? They just added the interest --

6 A No.

7 Q -- to the principal, and then rescheduled it to be paid  
8 over a 20-year period, right?

9 A Yes.

10 Q Okay. And when was your payment to be made on that note?

11 A November 1<sup>st</sup>, '97.

12 Q 1997, that fall. The same as the other note, right?

13 A Yeah.

14 Q Okay. And then let's go to the other note that you have  
15 there. And what's the amount of that note?

16 A 40,500.

17 Q \$40,500?

18 A \$40,595.

19 Q We will give you that one. Let's go to the Exhibit 5.

20 A Okay. 17,604.

21 Q 17,604?

22 A Yes.

23 Q And what note did that reschedule?

24 A 98809.

25 Q That rescheduled 98809, right?

1 A Yes.

2 Q So note number 98181 was rescheduled, right? First of  
3 all, that was the first one we said.

4 A Yes.

5 Q That \$420,000 one. And 98809 was rescheduled, right?

6 A Right.

7 Q And when was the payment due on that then?

8 A On November 1<sup>st</sup> of '97.

9 Q So these things that the Bank agrees to do here, to -- to  
10 ask the BIA if they would reschedule those notes, the BIA  
11 actually did reschedule, didn't they?

12 A Yes, they did, according to this.

13 Q Yeah. And the only thing they didn't do is they didn't  
14 increase it to 90 percent, did they?

15 A No.

16 Q It doesn't say on there, does it?

17 A It don't say I don't think.

18 Q No. And if it's not increased to 90 percent, what  
19 happens, the Bank is just more at risk, right?

20 A Yeah. 6 percent more.

21 Q Yeah. So I mean they would have a little more exposure if  
22 there was a loan loss. There would be less that they  
23 could collect from the BIA, right?

24 A Right.

25 Q So if it would have increased to 90 percent, it would have

1           been to the Bank's benefit, right?

2   A       Yeah.

3   Q       But since it didn't, the Bank still made you the loan,  
4           didn't they?

5   A       No. The Bank didn't give me my 70,000.

6   Q       Not the 70,000. They made you a 40,595 operating line,  
7           right?

8   A       Yeah.

9   Q       And when Russell -- when the Bank received the letter --  
10          do we have that into evidence? I think we do. They  
11          received a letter from the BIA on February 14<sup>th</sup>?

12   A       Yes.

13   Q       And that letter that you read to the jury here, a portion  
14          of it at least, says that -- that this was a modification  
15          that's requested that Jim sent in, was a modification,  
16          right?

17   A       Yeah.

18   Q       And that request says that it's a modification. And they  
19          said in there that he needed a more complete application,  
20          right?

21   A       Yes.

22   Q       And the Bank got the letter back from the BIA on  
23          February 14 of 1997, right?

24   A       Right.

25   Q       And had you already reported to the Bank at that time that

1 most of your cattle had died?

2 A Yes.

3 Q So you told the Bank on February 13<sup>th</sup>, didn't you?

4 A I think I did. That's what it says in that letter.

5 Q Yeah. You told the Bank on February 13<sup>th</sup> --

6 A Your comment sheets, I guess.

7 Q Yeah. You told the Bank on February 13<sup>th</sup> that the cattle  
8 had died. You only had 150 cows left and 25 calves left,  
9 right?

10 A Right.

11 Q And so obviously, that will affect whether or not the BIA  
12 is going to approve anything, won't it?

13 A I would -- that 110 head would have really helped me then,  
14 too, and so would have this \$70,000.

15 Q I know. I know that would have helped you. Or you think  
16 it would have helped you at least. But what my point is,  
17 that when you lose that many cattle, you said 500 head of  
18 cattle, that really drastically changes your net worth,  
19 doesn't it?

20 A Certainly.

21 Q And there aren't very many lenders then that want to make  
22 loans to you after that, are there?

23 A Probably not.

24 Q Okay. One other point I want to make --

25 THE COURT: Did you want to move the admission of those or --

1 MR. VON WALD: Yeah. If I haven't, I move to admit those  
2 exhibits.

3 THE COURT: Any objection, Jim?

4 MR. HURLEY: No objection.

5 THE COURT: All right. Those will be admitted as  
6 Defendant's 3, 4, 5.

7 Q (BY MR. VON WALD) And on this letter right here, that was  
8 this agreement, loan agreement?

9 A Yes.

10 Q Doesn't it say that if the BIA increases the thing to  
11 90 percent and if the BIA gives -- if the BIA grants a  
12 \$70,000, 90 percent BIA guaranteed loan, if that happens,  
13 then it says if the BIA guarantees requests are approved,  
14 then the Bank of Hoven will make a loan, right?

15 A Yup.

16 Q And those requests were never approved, were they not?

17 A No.

18 Q And -- and actually --

19 A Well, the top part of that shouldn't have been completed  
20 either, but it's all one contract.

21 Q But the top part was completed except for the BIA never  
22 increased the 90 percent guarantee?

23 A They never got to the bottom half.

24 Q I know. The BIA never did guarantee the loan to the Bank?

25 A Right. So the contract should -- shouldn't have been



1 carried out --

2 Q Now after you lost --

3 A -- (INAUDIBLE).

4 Q Now after you lost all of those cattle, Ronnie, did you  
5 still try to get an operating loan then? How did this  
6 \$40,595 operating loan come about?

7 A It came about that I didn't have any money, and I needed  
8 to pay back that -- we took part of that \$43,000. I paid  
9 back that money that I got from December 5<sup>th</sup> to February  
10 something to pay those bills with, and then I had some  
11 pasture cattle. I pledged half of that pasture money to  
12 get it.

13 Q You did a new cash flow, right?

14 A And by the way, those were all paid off.

15 Q The 40,995 was paid off, right?

16 A Yes.

17 Q Yeah. What, did you do with a new cash flow, right? In  
18 order to obtain that 40 -- that \$40,595, did you do a new  
19 cash flow?

20 A I believe so.

21 Q Okay.

22 MR. VON WALD: It's Defendant's 6, right?

23 THE COURT: Correct.

24 MR. HURLEY: No objection.

25 THE COURT: All right. It will be admitted then.

1 Q (BY MR. VON WALD) I will hand you now what has been  
2 marked as Defendant's Exhibit 6 and ask you if you would  
3 look at that if you would, please? What's the first  
4 document?

5 A It's a financial statement.

6 Q For?

7 A March 26<sup>th</sup> of '97.

8 Q March 26<sup>th</sup> of 1997?

9 A Yes.

10 Q And it's a financial statement of Long Family Land and  
11 Cattle Company, Inc., and Ronnie Long?

12 A Yes.

13 Q And you've added your home to that financial statement I  
14 see, right?

15 A Yes.

16 Q And the rest of the financial statement says Long Family  
17 Land and Cattle Company, Inc., yet, never really had your  
18 home listed, did it?

19 A No, they didn't.

20 Q But you have a home located where? Where is your home  
21 located?

22 A Out at the farm.

23 Q Okay. This is just south of Timber Lake?

24 A Yes.

25 Q And what do you have the value down on that?

1 A It would be the value that -- it's a HUD home, so I used  
2 the value that they had it valued at.

3 Q How much is that?

4 A 90,000.

5 Q HUD valued your home at 90,000 in the country?

6 A Yes. That's when they built them houses, that's what they  
7 was valued at.

8 Q When was it built?

9 A Ten or eleven years ago.

10 Q Well, had you furnished personal financial statements  
11 before to the Bank where it was listed at 15,000?

12 A Probably its contents. I don't know.

13 Q The house?

14 A I don't know.

15 Q What do you have the household down there for?

16 A Oh, 15,000 is using the old house, that's where that  
17 figure came from, the old farmhouse. That's where that  
18 figure came from.

19 Q Okay. So this is the first time you ever listed your  
20 house -- your HUD house?

21 A Yes.

22 Q Okay. And how much did you pay for your HUD house?

23 A That's a lease payment deal.

24 Q And your payments are about \$60 a month?

25 A Yeah.

1 THE COURT: Okay. We're going to be back here next Wednesday  
2 8:00 a.m. When you leave the courtroom, put everything  
3 you heard out of your mind. You are not to think about it  
4 over the weekend. You are not to ask anybody any  
5 questions. We're going to report back Wednesday morning,  
6 December 11<sup>th</sup>, 8:00 a.m, Jurors. So we'll see you then,  
7 Jurors. Leave your notes and everything there.

8 (END OF PROCEEDINGS

9 ON DECEMBER 6, 2002).

10 (END OF DUPLICATE #4 TAPE #2).

11 # # # #

12 (END OF VOLUME I OF III).

13

14

15

16

17

18

19

20

21

22

23

24

25