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UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF)	
)	
MAHLOCH FARMS, INC.,)	CASE NO. BK82-669
)	
DEBTOR)	

SUPPLEMENTAL MEMORANDUM

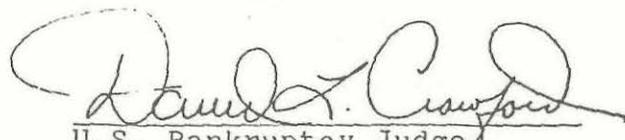
This memorandum supplements my decision made in open court on the record sustaining the objection to confirmation of Lincoln Production Credit Association on December 2, 1983.

The proponents of the proposed plan take the position that the proposed plan gives to Lincoln Production Credit Association the same bundle of rights which it would have in a Chapter 7 proceeding under the Bankruptcy Code. Thus, the proponents of the plan argue that Lincoln Production Credit Association has the "indubitable equivalent" mandated by the statute.

In my view, the argument of the proponents of the plan uses the wrong comparison to ascertain the existence of "indubitable equivalent". It seems to me that the appropriate test of whether a proposed plan offers the indubitable equivalent is not whether it offers the same rights as would exist in a Chapter 7 but whether it offers the indubitable equivalent of the rights of the party in interest if no debtor-relief proceeding existed at all.

DATED: December 5, 1983.

BY THE COURT:


U.S. Bankruptcy Judge

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