

CHARLES L. HONSINGER (ISB# 5240)
RINGERT CLARK CHARTERED
455 S. Third Street, P.O. Box 2773
Boise, Idaho 83701
Telephone: (208) 342-4591
Facsimile: (208) 342-4657

Attorneys for Claimant Black Canyon Partners, LLC

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

)

Water Right No. 65-00608

)

)

Case 38576

)

AFFIDAVIT OF CHARLES L. HONSINGER

)

)

)

)

STATE OF IDAHO

)

) ss

COUNTY OF ADA

)

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I am the attorney for Black Canyon Partners, LLC, the Claimant to the above captioned water right, and make this affidavit based upon my own personal knowledge and belief of the facts contained herein.

2. Black Canyon Partners, LLC recently purchased the real property to which the above claimed water right is appurtenant. A copy of the deed conveying the water rights to Black Canyon Partners, LLC is attached hereto as Exhibit "A".

COPY

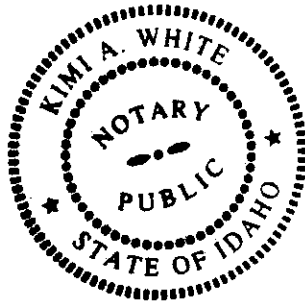
3. After purchase of the property referenced in paragraph 2 above, while attempting to administratively change the name of the owner of water right no. 65-608 to Black Canyon, LLC, I learned that water right no. 65-00608, while appearing in IDWR's records as a recorded water right, had not been claimed in the SRBA.

Further your affiant sayeth naught.

Dated this 27th day of April, 2004.

Charles L. Honsinger
Charles L. Honsinger

Sworn to and subscribed before me this 27th day of April, 2004.



Kimi A. White
Notary Public for Idaho
Residing in Boise, Idaho
My Commission Expires: 04/01/10

CERTIFICATE OF MAILING

I certify that on April 27th 2004, I served the original and copies of this document, including all attachments, to the following persons as follows:

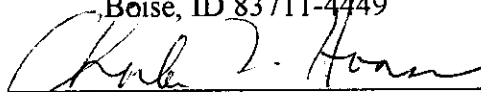
1. Original Faxed to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies Mailed to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Charles L. Honsinger

ATTACHMENT A

405-045-113

INSTRU. NO. <u>23-4506</u>
PAGES <u>1</u> OF <u>6</u>

0000 Sec 11, Sec 20, Sec 30, Sec 31, Sec 32 7N1E
 0055 Sec 29, Sec 30 7N1E
 0241 Sec 32 7N1E
 0017 Sec 25 7N1W
 0191, 0030, 0177, 0017, Sec 24 7N1W
 0168, 0111, 0050, 0072, 0119, 0118, 0058, 0189, 0111
 Sec 25 7

QUITCLAIM DEED

(Water Rights)

0247 Sec 26 7N1W
 0065, 0059, 0060, 0040, 0058, 0061, Sec 35 7N1W
 0084 Sec 36 7N1W

RONALD L. KUENZLI and IDA MARIE KUENZLI, husband and wife, "Grantor,"

hereby convey, release, remise and forever quit claim unto BLACK CANYON PARTNERSHIP LLC, an Idaho Limited Liability Company, "Grantee," whose address is 124 W. Main Street #D, Emmett, Idaho 83617, all right, title and interest, together with all right, title and interest hereinafter acquired by Grantor, in any and all water rights appurtenant to that certain parcel of real property located in the County of Gem, State of Idaho, more particularly described on Exhibit A attached hereto and incorporated herein by this reference, including but not limited to those certain water rights described below, to wit:

65-11363	65-7817	65-02633	65-10453
65-11362	65-02541	65-02543	65-02546
65-02538	65-22387	65-07818	65-02307
65-608 (currently in name of Elwood E. Bingham)	65-884 (currently in name of Evelyn L. Isgrigg)		

and including all shares and interest of Grantor in ditch companies, irrigation companies, and reservoir rights and shares.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold all and singular the said premises, together with the appurtenances, unto Grantee as its sole and separate property and to Grantee's heirs and assigns forever.

QUITCLAIM DEED - 1

Instrument # 234506

EMMETT, GEM, IDAHO

2004-02-06

02:23:00 No. of Pages: 6

Recorded for : ALLIANCE TITLE & ESCROW

SUSAN K. HOWARD

Fee: 18.00

Ex-Officio Recorder Deputy

Index to: QUIT CLAIM DEED



IN WITNESS WHEREOF, Grantor has hereunto set his hands this 2nd day of February 2004.

Ronald L. Kuenzli
Ronald L. Kuenzli

Ida Marie Kuenzli
Ida Marie Kuenzli

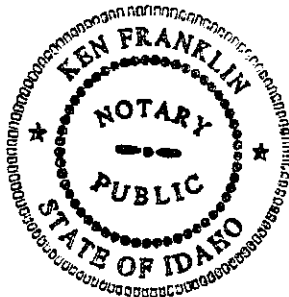
STATE OF Idaho)

SS.

County of Ada)

On this 2nd day of February, 2004, before me,
Ken Franklin, a notary public for said State, personally appeared
RONALD L. KUENZLI and IDA MARIE KUENZLI known or identified to me to be the
persons who executed the instrument, and acknowledged to me that they executed the same.

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



Ken Franklin
Notary Public for: Idaho
Residing at: Boise
My Commission Expires: 10/5/04

3198154_1.DOC



TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 19: The SE $\frac{1}{4}$ NE $\frac{1}{4}$; the E $\frac{1}{2}$ of the SE $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 20: Government Lot 4, the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, the W $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 29: The NW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the S $\frac{1}{2}$ of the SW $\frac{1}{4}$, the S $\frac{1}{2}$ of the SE $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 30: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ below the County Road, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Government Lots 2, 3, 4, the E $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 31: Government Lots 1, 2, 3, 4, the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the E $\frac{1}{2}$ of the SW $\frac{1}{4}$, the E $\frac{1}{2}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 32: The W $\frac{1}{2}$ of the NW $\frac{1}{4}$, the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the W $\frac{1}{2}$ of the SW $\frac{1}{4}$, the W $\frac{1}{2}$ of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the W $\frac{1}{2}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho

Section 25: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Government Lot 1

EXCEPT any railroad rights of way and any easements to Bureau of Reclamation.

TRACT I

The W ½ of the SE ¼ and Government Lot 4 lying within the E ½ of the SW ¼ of Section 19, Township 7 North, Range 1 East, B.M., Gem County, Idaho.

EXCEPTING a piece of land for reservoir right of way purposes, above Black Canyon Diversion Dam, Boise Project, Idaho, described as follows:

BEGINNING at a point on the South line of Section 19, Township 7 North, Range 1 East, B.M., Gem County, Idaho, which point is 606.3 feet North 89°55' West of the South quarter corner of said Section 19; thence
 North 20°12' West 389.9 feet; thence
 North 46°32' East 42.5 feet; thence
 North 44°09' West 50.0 feet, to a point on the centerline of the Idaho Northern Branch of the Oregon Short Line Railroad, which point is on 5°05' curve of said railroad, and is approached from the convex side, and normal to said curve; thence
 North 44°09' West 52.9 feet; thence
 North 17°51' West 83.1 feet; thence
 North 40°50' West 142.9 feet; thence
 North 75°29' West 96.0 feet; thence
 South 70°23' West 80.4 feet; thence
 South 47°58' West 73.1 feet; thence
 South 50°10' East 130.6 feet; thence
 South 14°26' East 184.0 feet; thence
 South 65°09' West 42.2 feet; thence
 North 66°30' West 151.7 feet; thence
 South 89°38' West 159.6 feet to a point on the West Lot line of said Lot 4; thence along the West lot line of said Lot 4
 North 00°02' East 868.4 feet; thence along a meander line
 North 62°30' East 105.3 feet to a point on the North Lot line of said Lot 4; thence along the North Lot line of said Lot 4,
 North 89°00' East 649.6 feet; thence
 South 26°50' West 136.1 feet; thence
 South 2°06' West 161.0 feet; thence
 South 65°24' East 166.0 feet; thence
 South 14°57' West 97.3 feet; thence
 South 21°32' West 86.6 feet; thence
 South 28°58' West 67.0 feet; thence
 South 61°41' East 51.1 feet to a point on above mentioned 5°05' curve and center line of said Idaho Northern Railroad, approached from the concave side of said 5°05' curve and normal to said curve which point is 345.2 feet from above mentioned intersection, measured on a 50 foot chord along said 5°05' curve; thence
 South 61°01' East 50.0 feet; thence
 South 42°46' East 233.7 feet; thence
 South 8°09' East 336.8 feet; thence
 South 25°49' East 192.9 feet to a point on the South section line of said Section 19, which point is 202.0 feet North 89°55' West of the South quarter corner of said Section 19; thence along the South section line of said Section 19
 North 89°55' West 404.3 feet to the **REAL POINT OF BEGINNING.**

AND EXCEPT railroad right of way.

AND EXCEPT County Road right of way.

TRACT II

The N $\frac{1}{2}$ of Section 30, Township 7 North, Range 1 East, B.M., Gem County, Idaho,
lying North of the County Road.

EXCEPT any portion lying within the E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of said Section.

TRACT III

TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho.

Section 24: Government Lots 4, 5, 6 and 7 (to highwater mark of reservoir)

EXCEPT railroad rights of way.

TRACT IV

TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho

Section 25: The S $\frac{1}{2}$ of the SE $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, the SW $\frac{1}{4}$ lying South and
East of the County Road, the S $\frac{1}{2}$ of the NE $\frac{1}{4}$ lying East of drain ditch, the NW $\frac{1}{4}$
of the SE $\frac{1}{4}$ lying South of the road, the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Government Lot 1

EXCEPT railroad rights of way.

TRACT V

TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho

Section 26: The S $\frac{1}{2}$ of the SE $\frac{1}{4}$ lying South of the County Road.

TRACT A

TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho

Section 35:

The NE $\frac{1}{4}$ of the SW $\frac{1}{4}$

The SE $\frac{1}{4}$ of the NW $\frac{1}{4}$

The SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ EXCEPT the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ (commonly known as the Water Reservoir Storage Lot)

The NW $\frac{1}{4}$ of the NE $\frac{1}{4}$

The W $\frac{1}{2}$ of the SE $\frac{1}{4}$

All lying South and East of the County Road.

TRACT B

TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho

Section 35:

The E $\frac{1}{2}$ of the NE $\frac{1}{4}$

The E $\frac{1}{2}$ of the SE $\frac{1}{4}$

Section 36:

The SW $\frac{1}{4}$ NW $\frac{1}{4}$

405-04507E

0008 Dec 14 to Dec 20, Dec 30, Dec 31, Dec 32 TNE
0055 Dec 29, Dec 30 TNE
0241 Dec 32 TNE
0017 Dec 25 TNE

INSTRU. NO. 234422
PAGES 1 OF 3

Re-recorded
INSTRU. NO. 234502
PAGES 1 OF 3

Instrument # 234422

EMMETT, GEM, IDAHO
2004-02-03 01:53:00 No. of Pages: 3
Recorded for: ALLIANCE TITLE & ESCROW
SUSAN K. HOWARD Fee: 9.00
Ex-Officio Recorder Deputy *Judy Evans*
Index to: WARRANTY DEED

WARRANTY DEED

THIS WARRANTY DEED is made by RONALD L. KUENZLI and IDA MARIE KUENZLI, whose address is PO Box 284, Star, ID 83669 as Grantor, to BLACK CANYON PARTNERS, LLC, an Idaho limited liability company, as Grantee, whose address is 124 W. Main Street, #D, Emmett, ID 83617,

NOW, THEREFORE, Grantor does hereby grant, convey, assign, transfer and set over unto Grantee, a fee simple interest in and to the real property as described on exhibit A, attached hereto and made a part hereof, all of which is situate in the County of Gem, State of Idaho.

TOGETHER WITH all the improvements, tenements and appurtenances on such property, and all easements, rights, and all fixtures now a part of the property.

TOGETHER WITH all water rights and ditch rights, however evidenced and to the full extent assignable, appurtenant to the property herein described or heretofore conveyed by Grantor to Grantee.

TOGETHER WITH Idaho State Grazing Lease No. G-6467, and Assignment of Reclamation Plan No. RP-2197, and the U.S. Bureau of Land Management grazing permit numbered 181 ("Anderson Creek"), being a combination of allotments 181 (Black Cy. Ranch) and 184 (Siller Ranch), now known as permit 181, to the full extent assignable.

RESERVING UNTO the Grantor the right to remove for Grantor's own use 50,000 yards of gravel from the gravel pit situate in Section 29, T7N, R1E., B.M., which may be terminated by Grantee's payment of \$1.00 per yard for the amount of the 50,000 yards not yet removed. The right to remove gravel expires October 31, 2008.

RESERVING FURTHER unto the Grantor the right to continue farming the property herein conveyed from the date hereof to October 31, 2008. This includes the dry farm ground, feed lot, dry pastures, and irrigated land, plus the grazing leases and permits aforesaid, and the irrigation and livestock equipment hereafter described, plus all outbuildings and dwellings now existing on such property. However, Grantee may request Grantor to discontinue such farming at any time due to Grantor's development of the property. Grantee shall reimburse Grantor for the costs incurred for the crops which are abandoned due to such discontinuance.

AND FURTHER TOGETHER WITH all sprinkler equipment, handlines, pumps, wheel lines, pivots and all irrigation pipes existing on the property, and all livestock scales, gates, water tanks and chutes on the property.

WARRANTY DEED-1

Instrument # 234502-Re-recorded

EMMETT, GEM, IDAHO
2004-02-06 02:19:00 No. of Pages: 3
Recorded for: ALLIANCE TITLE & ESCROW
SUSAN K. HOWARD Fee: 9.00
Ex-Officio Recorder Deputy *Judy Evans*
Index to: WARRANTY DEED

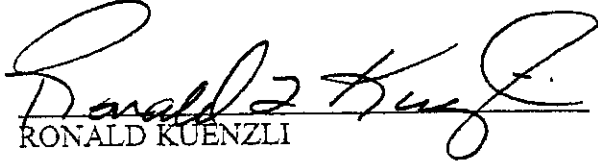
This document is being re-recorded to correct an error in the legal description.

Re-recorded 234502
INSTRU. NO. 234502
PAGES 2 OF 3

INSTRU. NO. 234423
PAGES 2 OF 3

GRANTOR COVENANTS that Grantor is lawfully seized of the estate hereby conveyed and has the right to grant and convey the same, both real and personal, and that all property and property rights herein transferred are unencumbered.

Dated this 2nd day of February, 2004.

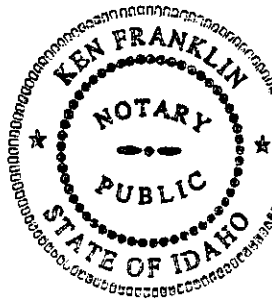

RONALD KUENZLI


IDA MARIE KUENZLI

STATE OF IDAHO)
) ss.
County of Ada)

On this 2nd day of ~~January~~ February, 2004, before me, the undersigned, a notary public in and for said State, personally appeared RONALD KUENZLI and MARIE KUENZLI, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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




Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 10/5/04

Exhibit "A"

Re-recorded
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INSTRU. NO. 234422
PAGES 3 OF 3

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 19: The SE $\frac{1}{4}$ NE $\frac{1}{4}$; the E $\frac{1}{2}$ of the SE $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 20: Government Lot 4, the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, the W $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 29: The NW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the S $\frac{1}{2}$ of the SW $\frac{1}{4}$, the S $\frac{1}{2}$ of the SE $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

Section 30: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ below the County Road, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, Government Lots 2, 3, 4, the E $\frac{1}{2}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$

TOWNSHIP 7 North, Range 1 East, B.M., Gem County, Idaho

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TOWNSHIP 7 North, Range 1 West, B.M., Gem County, Idaho

Section 25: The NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, Government Lot 1

EXCEPT any railroad rights of way and any easements to Bureau of Reclamation.

This document is being re-recorded to correct an error in the legal description in Section 19, 7N1E.