

Paul L. Arrington, ISB #7198
BARKER ROSHOLT & SIMPSON LLP
113 West Main, Suite 303
P.O. Box 485
Twin Falls, Idaho 83303
Telephone: (208) 733-0700
Facsimile: (208) 735-2444

Attorneys for the Clyde L. & Peggy G. Marchbanks Family Trust

COPY

RECEIVED

SEP 06 2007

**DEPARTMENT OF
WATER RESOURCES**

**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 No. 39576	)	
	)	Subcase No. 63-8413
IN THE MATTER OF MOTION TO FILE A	)	
LATE NOTICE OF CLAIM OF THE CLYDE L.	)	AFFIDAVIT OF PAUL L.
& PEGGY G. MARCHBANKS FAMILY	)	ARRINGTON IN SUPPORT OF
TRUST	)	MOTION TO FILE A LATE
	)	NOTICE OF CLAIM
	)	

STATE OF IDAHO	)
	)ss
County of Twin Falls	)

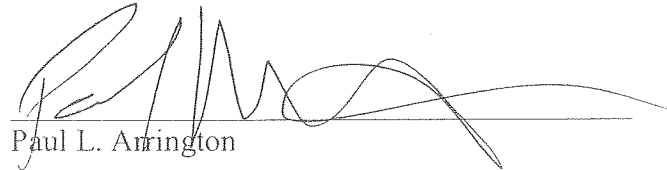
I, Paul L. Arrington, being first duly sworn upon oath, deposes and hereby states as follows:

1. I am an attorney representing the Clyde L. & Peggy G. Marchbanks Family Trust, the Petitioner in the above-captioned matter. I am over the age of 18 and state the following based on my personal knowledge:
2. Attached hereto as Exhibit A, is a true and correct copy of license number 63-8413, obtained from the website for the Idaho Department of Water Resources.
3. Attached hereto as Exhibit B, are true and correct copies of Warranty Deeds, dated February 19, 1988 and June 6, 1988, between Charles L. and Anna B. Klahr and Clyde L. and Peggy G. Marchbanks.

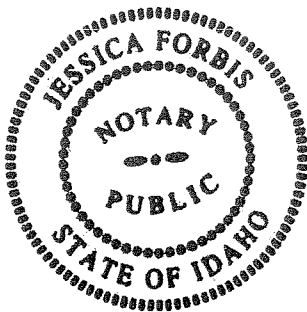
4. Attached hereto as Exhibit C, is a true and correct copy of a Personal Representative's Deed, dated August 30, 2007, transferring the property to the Clyde L. and Peggy G. Marchbanks Family Trust.

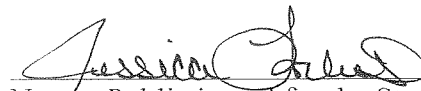
FURTHER, YOUR AFFIANT SAYETH NOUGHT.

Dated this 4th day of September, 2007.


Paul L. Arrington

SUBSCRIBED & SWORN to before me this 4 day of September, 2007




Notary Public in and for the State of Idaho
My Commission Expires: 4/3/12

CERTIFICATE OF SERVICE

I hereby certify that on the 4 day of Sept., 2007, I served a true and correct copy of the foregoing AFFIDAVIT OF PAUL L. ARRINGTON IN SUPPORT OF MOTION TO FILE A LATE NOTICE OF CLAIM on the person(s) listed below, in the manner indicated

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

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

United States Department of Justice
Environmental & Nat'l Resources Div.
550 W. Fort Street, MSC 033
Boise, ID 83724

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

Chief, Natural Resources Division
Office of Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivery
☐ Overnight Mail
☐ Facsimile
☐ Email

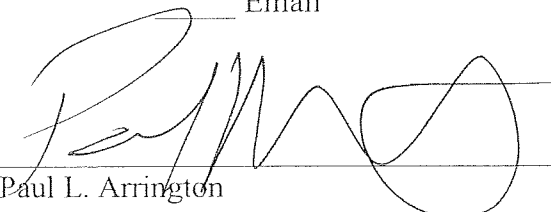

Paul L. Arrington

Exhibit A

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

08/15/2007

WATER RIGHT NO. 63-8413

Owner Type	Name and Address
Current Owner	ANNA B KLAHR
Current Owner	CHARLES L KLAHR RT 9 BOX 416 CALDWELL, ID 83605

Priority Date: 02/02/1977

Basis: License

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	3/15	11/15	1.9 CFS	487.8 AFA
Total Diversion			1.9 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SENE	Sec. 05	Township 04N	Range 03W	CANYON County
--------------	------	---------	--------------	-----------	---------------

Place(s) of use:

Place of Use Legal Description: IRRIGATION CANYON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	03W	5		SENE	34									
				NESE	38		NWSE	37						

Total Acres: 109

Conditions of Approval:

1.	R32	This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.
----	-----	--

Dates:

Licensed Date: 06/05/1984

Decreed Date:

Permit Proof Due Date: 3/1/1982

Permit Proof Made Date: 1/1/1900

Permit Approved Date: 3/9/1977

Permit Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

Exhibit B

9309033

WARRANTY DEED

For Value Received CHARLES L. KLAHR and ANNA B. KLAHR, husband and wife, 2818 Iowa Avenue, Caldwell, Idaho,

the grantor s, do hereby grant, bargain, sell and convey unto
CLYDE L. MARCHBANKS and PEGGY G. MARCHBANKS, husband and wife,
Route 5, Caldwell, Idaho,
the grantee s, the following described premises, situated in Canyon County,
State of Idaho, to-wit:

REAL PROPERTY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND
MADE A PART HEREOF;

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said
Grantees, their heirs and assigns forever. And the said Grantor s do hereby covenant to
and with the said Grantee s, that they are the owner s in fee simple of said premises; that
said premises are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever
Dated: February 19, 1988.

Charles L. Klahr
Charles L. Klahr
Anna B. Klahr
Anna B. Klahr

STATE OF IDAHO, COUNTY OF CANYON) ss.

On this 19th day of February, 1988, before me, a notary public
in and for said State, personally appeared

CHARLES L. KLAHR and ANNA B. KLAHR, husband and wife,

known to me to be the persons whose name s are subscribed to the within instrument, and ac-
knowledged to me that they executed the same.

Robert B. Anderson
Notary Public
Residing at Caldwell, Idaho

25254 Wagon Rd
Caldwell, ID

EXHIBIT "A"

The North 1/2 of the Southeast 1/4 of Section 5, Township 4 North, Range 3 West of the Boise Meridian, in Canyon County, Idaho;

Together with all water, water rights, ditches and rights of way for ditches appurtenant thereto or in anywise appertaining;

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining;

ALSO:

The Southwest 1/4 of the Northeast 1/4 of Section 5, Township 4 North, Range 3 West of the Boise Meridian, in Canyon County, Idaho, EXCEPTING THEREFROM:

Beginning at the Southeast corner of said Southwest 1/4 of the Northeast 1/4; thence running North a distance of 170 feet; thence running West at right angles, a distance of 125 feet; thence running South at right angles, a distance of 170 feet to the South boundary line of said Southwest 1/4 of the Northeast 1/4; thence running East along said South boundary line a distance of 125 feet to the point of beginning;

AND

The Southeast 1/4 of the Northwest 1/4 of Section 5, Township 4 North, Range 3 West of the Boise Meridian, in Canyon County, Idaho;

AND

All of the Southeast 1/4 of the Northeast 1/4 of Section 5, Township 4 North, Range 3 West of the Boise Meridian, in Canyon County, Idaho; EXCEPTING THEREFROM a strip of land off the North side containing 4.48 acres, as disclosed by Decree of Distribution in the estate of Dudley M. Stafford, deceased, recorded April 24, 1959 as Document No. 471042 in Book 26 of Probate Records, page 173;

AND

That part of the North 1/2 of the Northwest 1/4 of Section 4, Township 4 North, Range 3 West of the Boise Meridian, in Canyon County, Idaho, lying South and West of the Notus Canal, EXCEPTING THEREFROM:

A part of Lot 4, Section 4, Township 4 North, Range 3 West Boise Meridian, more particularly described, to wit:

COMMENCING at the Southwest corner of Lot 4, Section 4, Township 4 North, Range 3 West Boise Meridian; thence North 0°54' East 730 feet along the West line of said Lot 4 to the INITIAL POINT; thence continue North 0°54' East 247.5 feet along the said West line to a point in the Southwesterly right of way line of the Notus Canal; thence South 75°19'30" East 132 feet along the said Southwesterly right of way line; thence South 29°49'15" East 256.34 feet along the said Southwesterly right of way line; thence North 89°06' West 256.6 feet to the INITIAL POINT;

Together with all water, water rights, ditches and rights of way for ditches appurtenant thereto or in anywise appertaining;

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining;

SUBJECT TO Federal Land Bank Mortgage, Instrument No. 969058 records of Canyon County, Idaho.

REQUEST
TYPE I
L
O
O
D
I
N
L
O
O

93 APR 29 PM 1 42
REC. LRA
CANYON CO. RECORDER
BY
L. O. O'Leary

RECORDED

9309033

4-9501597

WARRANTY DEED

For Value Received CHARLES L. KLAHR and ANNA B. KLAHR,
husband and wife, 1715 Ray Avenue, Caldwell, Idaho,

the grantors, do hereby grant, bargain, sell and convey unto
CLYDE L. MARCBANKS and PEGGY C. MARCBANKS, husband and wife,
Route 4, Caldwell, Idaho,
the grantee s, the following described premises, situated in Canyon County,
State of Idaho, to-wit:

The Southwest 1/4 of the Northeast 1/4 of Section 5,
Township 4 North, Range 3 West of the Boise Meridian,
in Canyon County, Idaho;

To, ether with all water, water rights, ditches and
rights of way for ditches appurtenant thereto or in
anywise appertaining;

Subject to all existing rights of way and easements;

REQUEST
TYPE Dated FOR 300
2-9-94 Marcbanks

CANYON CITY RECORDER
BY M. Craig Day

95 JUN 20 PM 1 27

RECORDED

9501597

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said
Grantee s, their heirs and assigns forever. And the said Grantor s do hereby covenant to
and with the said Grantee s, that they are the owner s in fee simple of said premises; that
said premises are free from all incumbrances

and that the Y will warrant and defend the same from all lawful claims whatsoever.
Dated: June 6, 1988.

Charles L. Klahr
Charles L. Klahr
Anna B. Klahr
Anna B. Klahr

STATE OF IDAHO, COUNTY OF CANYON ss.

On this 12th day of June, 1988, before me, a notary public
in and for said State, personally appeared
CHARLES L. KLAHR and ANNA B. KLAHR, husband and wife,

known to me to be the person s whose name s are subscribed to the within instrument, and ac-
knowledged to me that they executed the same

Robert K. Alexander
Notary Public
Residing at Caldwell, Idaho

Exhibit C

WHEN RECORDED

RETURN TO:

McAnaney & Associates, PLLC
1101 W. River Street, Suite 100
Boise, Idaho 83702

PERSONAL REPRESENTATIVE'S DEED

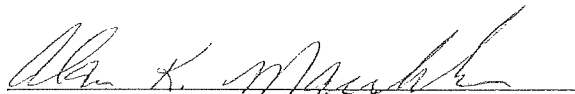
GRANTOR, Alan K. Marchbanks, in his official capacity as the Personal Representative of the Estates of Clyde L. Marchbanks (District Court for Canyon County, Idaho, Case No. CV 05-8058) and Peggy G. Marchbanks (District Court for Canyon County, Idaho, Case No. CV 06-6797), husband and wife, does hereby REMISE and RELEASE unto Alan K. Marchbanks, Trustee of The Clyde L. & Peggy G. Marchbanks Family Trust u/a/d May 30, 1989, as amended, whose current address is 2788 E. Green Canyon Drive, Meridian, Idaho 83642, as GRANTEE and to Grantee's successors and assigns, all of Grantor's right, title and interest in and to the real property situated in Canyon County, Idaho, more particularly described as follows:

See Exhibit A

TOGETHER with all tenements, hereditaments and appurtenances thereunto belonging.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, Grantor has hereunto subscribed his name to this instrument this 30 day of August, 2007.



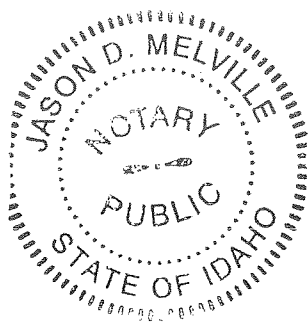
Alan K. Marchbanks, Personal Representative of
the Estates of Clyde L. Marchbanks and Peggy G.
Marchbanks

STATE OF IDAHO)

: ss.

County of Ada)

On this 30 day of August, 2007, before me, the undersigned, a Notary Public, personally appeared **Alan K. Marchbanks**, in his official capacity as the Personal Representative of the Estates of Clyde L. Marchbanks and Peggy G. Marchbanks, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



A handwritten signature of Jason D. Melville in cursive script.

Notary Public for Idaho

Residing at:

Bowen Inn

My commission expires:

12/26/2009

PERSONAL REPRESENTATIVE'S DEED - 2

M:\Clients\Marchbanks, Alan & Karen - 06028\06028.001 - Clyde L. & Peggy G. Marchbanks Family Trust U A 053089\Deed Powder River
Property 1 of 6 to Trust.doc

EXHIBIT "A"

PARCEL 1:

The Southeast Quarter of the Northeast Quarter in Section 5, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho.

EXCETPING THEREFROM

A strip of land off of the north side as disclosed by Decree of Distribution in the estate of Dudley M. Stafford, deceased, recorded April 24, 1959 as Document No. 471042 in Book 26 of Probate Records, Page 173 and further shown as the North 147.20 feet of the Southeast Quarter of the Northeast Quarter in Section 5, Township 4 North, Range 3 West, Boise-Meridian, by Record of Survey recorded January 26, 1999, as Instrument No. 9903050, records of Canyon County, Idaho.

PARCEL 2:

The Southwest Quarter of the Northeast Quarter in Section 5, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho.

PARCEL 3:

The Southeast Quarter of the Northwest Quarter in Section 5, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho.

PARCEL 4:

The Southwest Quarter of the Northwest Quarter in Section 5, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho.

PARCEL 5:

The Southeast Quarter of the Northeast Quarter in Section 6, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho.

EXCEPTING THEREFROM

This parcel is a portion of the Southeast Quarter of the Northeast Quarter of Section 6, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho, and is more particularly described as follows:

COMMENCING at the Southeast corner of said Southeast Quarter of the Northeast Quarter; thence North 01°53'37" East along the East boundary of said Southeast Quarter of the Northeast Quarter a distance of 466.83 feet to the TRUE POINT OF BEGINNING; thence North 88°06'22" West at right angles a distance of 275.20 feet; thence North 01°53'37" East parallel with said East boundary a distance of 242.00 feet; thence

(Continued)

South 88°06'22" East a distance of 275.20 feet to a point on said East boundary; thence South 01°53'37" West along said East boundary a distance of 242.00 feet to the TRUE POINT OF BEGINNING.

PARCEL 5:

The North Half of the Southeast Quarter in Section 5, Township 4 North, Range 3 West, Boise-Meridian, Canyon County, Idaho.

PERSONAL REPRESENTATIVE'S DEED - 4

M:\Clients\Marchbanks, Alan & Karen - 06028\06028.001 - Clyde L. & Peggy G. Marchbanks Family Trust U A 053089\Deed Powder River Property 1 of 6 to Trust.doc