

RECEIVED

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DEPT OF WATER RESOURCES
SOUTHERN REGIONSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**Notice of Security Interest in a Water Right****And Request for Notification of a Change in Ownership or Any Proposed
Or Final Action to Amend, Transfer, or Otherwise Modify a Water Right**Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s): 47-2194, 47-14273
Adjudication Claim No(s): _____
2. The following **REQUIRED** information must be submitted with this form:
A) Evidence of the security interest. This may be a copy of a **DEED of TRUST, MORTGAGE, CONTRACT OF SALE** or other legal document indicating your interest in the property and water rights or claims in question, **WITH ATTACHED LEGAL DESCRIPTION.**
B) A **FEE** of \$25.00 per water right or adjudication claim.
3. Name and Mailing Address of Person or Company holding Security Interest
D. L. Evans Bank
P.O. Box 87
Twin Falls, ID 83303
4. Name of Water Right Owner/Claimant(s) Kelley's Canyon Orchard LLC
5. Expiration Date of Notification Period 11/25/2036
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) (and title if applicable) 
Loan Officer

For Office Use Only

Received by <u>DM</u>	Date <u>8/7/2017</u>	Fee <u>\$50-</u>
Received by <u>DM</u>	Date <u>8/7/2017</u>	Receipt No. <u>5036274</u>
Processed by _____	Date _____	WR _____ Date _____

SUPPORT DATA

IN FILE # 47-2194

70095RG

RECORDATION REQUESTED BY:

D. L. Evans Bank
Twin Falls Financial Center
P.O. Box 87
906 Blue Lakes Blvd. N.
Twin Falls, ID 83301

ELECTRONICALLY RECORDED - DO NOT
REMOVE THE COUNTY STAMPED FIRST
PAGE AS IT IS NOW INCORPORATED AS
PART OF THE ORIGINAL DOCUMENT.

WHEN RECORDED MAIL TO:

D. L. Evans Bank
Twin Falls Financial Center
P.O. Box 87
906 Blue Lakes Blvd. N.
Twin Falls, ID 83301

SEND TAX NOTICES TO:

Kelley's Canyon Orchard, LLC
1903 C River Road
Filer, ID 83328

TWIN FALLS COUNTY

RECORDED FOR:
TITLEFACT, INC.

02:56:52 PM 04-21-2017

2017006212

NO. PAGES 8 FEE: \$31.00
KRISTINA GLASCOCK
COUNTY CLERK

DEPUTY: SM
Electronically Recorded by Simplifile

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

MORTGAGE

THIS MORTGAGE dated April 7, 2017, is made and executed between Kelley's Canyon Orchard, LLC, an Idaho Limited Liability Company (referred to below as "Grantor") and D. L. Evans Bank, whose address is P.O. Box 87, 906 Blue Lakes Blvd. N., Twin Falls, ID 83301 (referred to below as "Lender").

GRANT OF MORTGAGE. For valuable consideration, Grantor mortgages, grants, bargains, sells and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in Twin Falls County, State of Idaho:

PARCEL NO. 1

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho

Section 10: All of Lot 8, N $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 11: NW $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$

EXCEPT a tract located in part of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 10 and part of the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11, Township 9 South, Range 15 E., B.M., more particularly described as follows:

BEGINNING at the Southeast corner of said Section 10;

THENCE North 90°00' West 671.54 feet to the Southeast corner of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 10;

THENCE North 0°15' West 660.00 feet to the Northeast corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

THENCE North 90°00' West 671.54 feet to the Northwest corner of said SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

THENCE North 0°15' West 462.25 feet along the Westerly boundary of said SE $\frac{1}{4}$ SE $\frac{1}{4}$;

THENCE North 69°50' East 97.79 feet;

THENCE North 71°16' East 505.82 feet;

THENCE along the Snake River Canyon Rim for the following five courses and distances:

THENCE South 89°36' East 601.0 feet;

THENCE South 67°10' East 307.31 feet;

THENCE South 82°46' East 334.34 feet;

THENCE North 67°05' East 133.40 feet;

THENCE North 72°42' East 817.44 feet to a point on the Easterly boundary of said W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11;

THENCE South 0°06' West 1406.98 feet to the Southeast corner of said W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 11;

THENCE South 88°15' West 1340.28 feet to the POINT OF BEGINNING.

SUBJECT TO the rights of a county road which affects the Southerly 25 feet of said Section 10, more or less.

AND EXCEPT

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho

Section 10: A tract located in Lot 8 more particularly described as follows:

BEGINNING at the Southeast corner of Section 11 on U.S. Government Brass Cap;

THENCE North 70°59'51" West 6744.84 feet to the POINT OF BEGINNING;

THENCE South 01°47'11" East 446.71 feet;

THENCE South 88°12'49" East 305.68 feet;

THENCE North 01°47'11" West 446.71 feet;

THENCE North 88°12'49" West 305.68 feet to the POINT OF BEGINNING.

TOGETHER WITH a 50-foot-wide road right of way being 25.00 feet on each side of a centerline **BEGINNING** at the Southeast corner of said Section 11:

THENCE North 71°43'02" West 6976.17 feet to the POINT OF BEGINNING;

THENCE North 26°33'19" East 55.19 feet;

THENCE North 10°24'18" East 193.78 feet to the POINT OF TERMINATION on the South right-of-way line of existing county road from which the Southeast corner of said Section 11 bears South 69°41'54" East 6999.13 feet.

AND EXCEPT

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho

Section 11: Part of the W $\frac{1}{2}$ SW $\frac{1}{4}$

BEGINNING at the Southeast corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 9 South, Range 15 E., B.M.;

THENCE North 0°21'31" East (North 0°06' East rec.) along the East line of the W $\frac{1}{2}$ SW $\frac{1}{4}$ for 1406.98 feet to a $\frac{1}{2}$ " rebar which shall be the POINT OF BEGINNING;

THENCE South 72°57'31" West (South 72°42' West rec.) for 695.81 feet to a point;

THENCE North 0°21'31" East for 1410.51 feet to a $\frac{1}{2}$ " rebar on the quarter section line;

THENCE North 89°23'05" East along said quarter section line for 664.06 feet to a $\frac{1}{2}$ " rebar at the Northeast corner of the NW $\frac{1}{4}$ SW $\frac{1}{4}$;

THENCE South 0°21'31" West along the East line of the W $\frac{1}{2}$ SW $\frac{1}{4}$ for 1213.72 feet to the POINT OF BEGINNING.

AND EXCEPT

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho

Section 11: The North 252 feet of the W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$

EXCEPT Highway right of way.

PARCEL NO. 2

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho

Section 10: The North one-half of Lot 7

PARCEL NO. 3

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho

Section 10: A tract of land located in Lot 8 more particularly described as follows:

BEGINNING at the Southeast corner of Section 11 of said Township 9 South, Range 15 East, Boise Meridian, a U.S. Government brass cap;

[Handwritten signature]
(INITIAL)

THENCE North 70°59'51" West for 6744.84 feet to the TRUE POINT OF BEGINNING;
 THENCE South 01°47'11" East for 446.71 feet;
 THENCE South 88°12'49" West for 305.68 feet;
 THENCE North 01°47'11" West for 446.71 feet;
 THENCE North 88°12'49" East for 58.84 feet;
 THENCE South 01°47'11" East for 125.00 feet;
 THENCE North 88°12'49" East for 100.00 feet;
 THENCE North 01°47'11" West for 125.00 feet;
 THENCE North 88°12'49" East for 146.84 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH the right of ingress and egress over and across the access road described below:
 A 50-foot-wide strip of land located in Lot 8 of Section 10, Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho, being 25.00 feet on each side of the centerline being more particularly described as follows:
 BEGINNING at the Southeast corner of Section 11 of Township 9 South, Range 15 East, Boise Meridian, a U.S. Government brass cap;
 THENCE North 71°43'02" West for 6976.17 feet to the TRUE POINT OF BEGINNING;
 THENCE North 26°33'19" East for 55.19 feet;
 THENCE North 10°24'18" East for 193.78 feet to the POINT OF TERMINATION on the South right-of-way line of an existing county road from which the Southeast corner of said Section 11 bears South 69°41'54" East 6999.31 feet.

PARCEL NO. 4

Township 9 South, Range 15 East, Boise Meridian, Twin Falls County, Idaho
 Section 10: A tract of land located in Lot 8, more particularly described as follows:
 BEGINNING at the Southeast corner of Section 11, Township 9 South, Range 15 E., B.M., a U.S. Government brass cap;
 THENCE North 71°43'02" West for 6976.17 feet to the TRUE POINT OF BEGINNING;
 THENCE South 01°47'11" East for 125.00 feet;
 THENCE North 88°12'49" East for 100.00 feet;
 THENCE North 01°47'11" West for 125.00 feet;
 THENCE South 88°12'49" West for 100.00 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH the right of ingress and egress and across the access road described below:
 A 50.00 foot wide strip of land located in Lot 8 of Section 10, Township 9 South, Range 15 E., B.M., Twin Falls County, Idaho, being 25.00 feet on each side of a centerline being more particularly described as follows:
 BEGINNING at the Southeast corner of Section 11, Township 9 South, Range 15 E., B.M., U.S. Government brass cap;
 THENCE North 71°43'02" West 6976.17 feet to the TRUE POINT OF BEGINNING;
 THENCE North 26°33'19" East for 55.19 feet;
 THENCE North 10°24'18" East for 193.78 feet to the POINT OF TERMINATION on the South right-of-way line of an existing county road from which the Southeast corner of said Section 11 bears South 69°41'54" East 6999.13 feet.

Together with the water rights represented by Idaho State Department of Water Resources Water Right No. 47-2194 with a claimed priority of September 2, 1932 to 0.26 cfs of irrigation water from unnamed stream a tributary of Snake River and Water Resources Water Right No. 47-14273 with a claimed priority of May 1, 1908 to 0.39 cfs of irrigation water from unnamed stream a tributary of Sinks and from unnamed stream a tributary of Snake River together with any and all other water rights and ditch rights appurtenant to the above described premises.

The Real Property or its address is commonly known as 1903 A, B, and C River Road, Filer, ID 83328. The Real Property tax identification number is RP09S15E101210, RP09S15E115420, RP09S15E107820, RP09S15E107350 and RP09S15E107300.

CROSS-COLLATERALIZATION. In addition to the Note, this Mortgage secures all obligations, debts and liabilities, plus interest thereon, of Grantor to Lender, or any one or more of them, as well as all claims by Lender against Grantor or any one or more of them, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note, whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Grantor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions.

Possession and Use. Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property, (2) use, operate or manage the Property; and (3) collect the Rents from the Property. The following provisions relate to the use of the Property or to other limitations on the Property.

Duty to Maintain. Grantor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify, defend, and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify and defend, shall survive