

RECEIVED

JUN 20 2016

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): 45-2335; 45-2348; 45-
- ⁴²⁵⁹
- 2459; 45-4260; 45-10028

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 BankP.O. Box 87Twin Falls, ID 83303

4. Name of Water Right Owner/Claimant(s)
- Tolman And Sons

5. Expiration Date of Notification Period
- 5/10/2046

6. Is this a Renewal of Request for Notification?
- ☐
- YES
- ☒
- NO

7. Signature(s) (and title if applicable)
- 

Commercial Loan Officer

SUPPORT DATA

IN FILE # 45-2335**For Office Use Only**

Received by	Date	Fee
Receipted by <u>DM</u>	Date <u>6-20-2016</u>	Receipt No. <u>\$125-3035536</u>
Processed by	Date	WR Date

RECORDATION REQUESTED BY:

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

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:

Tolman & Sons, Inc.
3284 North 4500 East
Murtaugh, ID 83344

TWIN FALLS COUNTY
RECORDED FOR:
TITLEONE - TWIN FALLS
02:20:54 PM 05-19-2016
2016008252
NO. PAGES 7 FEE: \$28.00
KRISTINA GLASCOCK
COUNTY CLERK
DEPUTY: DJW
Electronically Recorded by Simplifile

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

#16269873

MORTGAGE

THIS MORTGAGE dated May 18, 2016, is made and executed between Parcel No. 1: Tolman & Sons, Inc; Parcel No. 2: Tolman & Sons, Inc., an Idaho corporation (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 11 SOUTH, RANGE 20 EAST OF THE BOISE MERIDIAN, TWIN FALLS COUNTY, IDAHO

Section 18: Part of the NW¼, described as follows:

Beginning at the Northwest corner of Section 18 in Township 11 South, Range 20 East Boise Meridian, said corner marked by a brass cap;
Thence South 00°04'31" East along the west line of Section 18 for a distance of 40.56 feet to the southerly right of way of State Highway 30 which shall be THE POINT OF BEGINNING;
Thence North 89°37'02" East along the southerly right of way of State Highway 30 for a distance of 25.14 feet to a right of way marker;
Thence North 89°37'02" East along said right of way for a distance of 328.29 feet to a right of way marker;
Thence North 00°24'40" West along said right of way for a distance of 15.19 feet to a ½" rebar;
Thence North 89°37'19" East along said right of way for a distance of 1706.36 feet to a ½" rebar;
Thence South 00°04'31" East (South, Rec.) for a distance of 125.00 feet to a ½" rebar;
Thence North 89°37'53" East (East, Rec.) for a distance of 125.33 feet (125', Rec.);
Thence South 00°12'11" East (South, Rec.) for a distance of 240.00 feet to a ½" rebar;
Thence North 89°37'53" East (East, Rec.) for a distance of 72.52 feet (75', Rec.) to a ½" rebar;
Thence South 00°12'11" East (South 0°38'57" W, Rec.) for a distance of 13.08 feet (13.00', Rec.) to a ½" rebar;
Thence South 79°04'26" East (South 78°40'39" E, Rec.) for a distance of 132.29 feet (132.48', Rec.) to a ½" rebar;
Thence South 88°04'03" East (South 87°27'03" E, Rec.) for a distance of 131.75 feet (131.88', Rec.) to the east line of Gov't Lot 1;
Thence South 00°11'41" West along said line for a distance of 13.48 feet to the centerline of a lateral;
Thence South 87°44'06" East along said centerline for a distance of 28.81 feet;
Thence South 73°18'06" East along said centerline for a distance of 91.08 feet;
Thence South 64°27'27" East along said centerline for a distance of 171.39 feet;
Thence South 56°59'51" East along said centerline for a distance of 206.91 feet;
Thence South 55°16'26" East along said centerline for a distance of 153.14 feet;
Thence South 70°48'46" East along said centerline for a distance of 30.52 feet;
Thence South 84°16'05" East along said centerline for a distance of 151.75 feet;
Thence North 87°54'10" East along said centerline for a distance of 61.13 feet;
Thence North 72°21'53" East along said centerline for a distance of 121.85 feet;
Thence North 56°16'25" East along said centerline for a distance of 60.47 feet;
Thence North 38°57'39" East along said centerline for a distance of 242.70 feet;
Thence North 33°06'22" East along said centerline for a distance of 121.20 feet;
Thence North 38°40'50" East along said centerline for a distance of 61.52 feet;
Thence North 42°11'16" East along said centerline for a distance of 118.06 feet to the east line of the NE¼NW¼;
Thence South 00°12'45" East along said line for a distance of 23.73 feet to a ½" rebar;
Thence South 00°12'45" East along said line for a distance of 1018.98 feet to a 5/8" rebar at the Southeast corner of the NE¼NW¼;
Thence North 89°55'00" West along the south line of the NE¼NW¼ for a distance of 1320.72 feet to a ½" rebar at the Southeast corner of Gov't Lot 1;
Thence South 00°35'06" East along the east line of Gov't Lot 2 for a distance of 1225.42 feet to a ½" rebar on the right of way of Murtaugh Lake Reservoir;
Thence North 70°34'56" West along said right of way for a distance of 103.73 feet;
Thence North 68°19'49" West along said right of way for a distance of 90.62 feet;
Thence North 71°42'07" West along said right of way for a distance of 213.19 feet;
Thence North 76°04'34" West along said right of way for a distance of 334.43 feet;
Thence North 76°44'18" West along said right of way for a distance of 242.56 feet;
Thence North 77°49'53" West along said right of way for a distance of 547.13 feet;
Thence North 75°49'52" West along said right of way for a distance of 60.42 feet;
Thence North 61°49'08" West along the right of way of Murtaugh Lake Reservoir and the right of way of main canal for a distance of 30.54 feet;
Thence North 35°15'43" West along the right of way of main canal for a distance of 58.42 feet;
Thence North 26°06'54" West along said right of way for a distance of 60.59 feet;
Thence North 31°07'56" West along said right of way for a distance of 332.89 feet;
Thence North 28°59'16" West along said right of way for a distance of 426.88 feet;
Thence North 31°38'50" West along said right of way for a distance of 122.07 feet;
Thence North 41°20'42" West along said right of way for a distance of 111.48 feet;
Thence North 47°06'14" West along said right of way for a distance of 91.36 feet;
Thence North 53°19'41" West along said right of way for a distance of 61.02 feet;
Thence North 60°58'39" West along said right of way for a distance of 64.61 feet;
Thence North 72°49'59" West along said right of way for a distance of 199.58 feet to a ½" rebar;
Thence North 72°49'59" West along said right of way for a distance of 23.86 feet to the west line of Section

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INITIAL

18;
Thence North 00°04'31" West along said line for a distance of 925.47 feet to THE POINT OF BEGINNING.

PARCEL NO. 2:

TOWNSHIP 11 SOUTH, RANGE 19 EAST OF THE BOISE MERIDIAN, TWIN FALLS COUNTY, IDAHO

Section 14: NE¼

Together with the water rights represented by Idaho State Department of Water Resources Water Right No. 45-2335 with a claimed priority of June 26, 1950 to 0.6 cfs of irrigation water from groundwater and Water Right No. 45-2348 with a claimed priority of September 20, 1950 to 0.5 cfs of irrigation water from groundwater and Water Right No. 45-4259 with a claimed priority of June 30, 1985 to 0.06 cfs of irrigation water from groundwater and Water Right No. 45-4260 with a claimed priority of April 1, 1956 to 0.9 cfs of irrigation water from groundwater and Water Right No. 45-10028 with a claimed priority of December 31, 1908 to 0.02 cfs of stock water and 0.07 cfs of domestic from groundwater together with any and all other water rights and ditch rights appurtenant to the above described premises.

Together with 95178 shares of the capital stock of the Twin Falls Canal Company Certificate No. 42848, together with any and all other water rights and ditch rights appurtenant to the above described premises.

TOGETHER WITH ALL IRRIGATION EQUIPMENT AND ADDITIONS THERETO AND REPLACEMENTS THEREOF NOW OWNED OR HEREAFTER ACQUIRED BY THE BORROWERS AND USED IN THE IRRIGATION OF THE ABOVE PREMISES, ESPECIALLY BUT NOT LIMITED TO PUMPS, PIPE, CASING, MOTOR AND ELECTRICAL PANELS AND ACCESSORIES TO EACH INCLUDING BUT NOT LIMITED TO: 9 TOWER ZIMMATIC PIVOT SERIAL NO. L47547 WITH BOOSTER PUMP SERIAL NO. 286TPH

The Real Property or its address is commonly known as 3284A North 4500 East, Murtaugh, ID 83344. The Real Property tax identification number is RP11S19E140000A.

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 the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

Removal of Improvements. Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans With Disabilities Act. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY LENDER. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. If any Grantor is a corporation, partnership or limited liability company, transfer also includes any change in ownership of more than twenty-five percent (25%) of the voting stock, partnership interests or limited liability company interests, as the case may be, of such Grantor. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Idaho law.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are part of this Mortgage:





State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region • 650 Addison Ave W, Suite 500 • Twin Falls, Idaho 83301-5858

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

June 23, 2016

D L EVANS BANK
PO BOX 87
TWIN FALLS ID 83303

Re: Notice of Security Interest in a Water Right for Water Right 45-2335, 45-2348, 45-4259,
45-4260 and 45-10028 / Tolman & Sons

Dear Party Holding Security Interest:

The Department of Water Resources acknowledges receipt of the Notice of Security Interest in a Water Right you recently submitted on the above water rights. The Department has modified its records to reflect the security interest and has enclosed a computer-generated report for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owners of a water right to the Department. Notice of the change must be provided to the Department within 120 days of the change. Change reporting forms are available from any office of the Department or on the Department's website.

Please feel free to contact this office with any questions you may have.

Sincerely,

A handwritten signature in cursive script, reading "Trish Fawcett".

Trish Fawcett
Technical Records Specialist

Enclosures

cc: Tolman & Sons