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DEC 24 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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): ^{PD} 36-11282 & ^{PD} 45-10757 & ^{PD} 45-11412 _____
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) Dennis Kowitz & Laurie Kowitz _____
5. Expiration Date of Notification Period December 5, 2021 _____
6. Is this a Renewal of Request for Notification? ☐ YES ☐ NO
7. Signature(s) (and title if applicable) M. Evans _____
Loan Processor _____

For Office Use Only

Received by _____	Date _____	Fee <u>75⁰⁰</u>
Received by <u>KAW</u>	Date <u>12/24/07</u>	Receipt No. <u>0085577</u>
Processed by _____ AJ	Date _____	WR _____ Date _____

SUPPORT DATAIN FILE # 36-11282

312931

488471

Instrument # 488471

MINIDOKA COUNTY, RUPERT, IDAHO
 2006-12-28 02:28:13 No. of Pages: 8
 Recorded for: BURLEY LAND TITLE
 DUANE SMITH Fee: 27.00
 Ex-Officio Recorder Deputy

LAND TITLE & ESCROW

RECORDED AT THE REQUEST OF

2006 DEC 28 AM 11:26

FEE 27.00 DEPUTY 46

CASSIA COUNTY, IDAHO
 LARRY A. MICKELSEN
 RECORDER

312931

#42834

Space Above This Line For Recording Data

MORTGAGE

DATE AND PARTIES. The date of this Mortgage (Security Instrument) is DECEMBER 22, 2006. The parties and their addresses are:

MORTGAGOR:

DENIS C. KOWITZ
 A/K/A DENIS KOWITZ
 HUSBAND
 171 NORTH HIGHWAY 77
 DECLO, Idaho 83323

LAURIE K. KOWITZ
 A/K/A LAURIE KOWITZ A/K/A LAURIE KAY KOWITZ
 WIFE
 171 NORTH HIGHWAY 77
 DECLO, Idaho 83323

LENDER:

D. L. EVANS BANK
 Organized and existing under the laws of Idaho
 P. O. Box 517
 Corner of Market & Main
 Albion, Idaho 83311

1. CONVEYANCE. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debts and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, conveys and mortgages to Lender, the following described property:

REFER TO EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

TOGETHER WITH THE WATER RIGHTS REPRESENTED BY IDAHO STATE DEPARTMENT OF WATER RESOURCES WATER RIGHT NO. 36-11282 WITH A CLAIMED PRIORITY OF JULY 15, 1950 TO 0.06 CFS OF GROUND WATER, AND WATER RIGHT NO. 45-10757 WITH A CLAIMED PRIORITY OF JUNE 1, 1945 TO 0.18 CFS OF GROUND WATER AND WATER RIGHT NO. 45-11412 WITH A CLAIMED PRIORITY OF MAY 31, 1910 TO 0.06 CFS OF GROUND WATER, TOGETHER WITH ANY AND ALL OTHER WATER RIGHTS AND DITCH RIGHTS APPURTENANT TO THE ABOVE DESCRIBED PREMISES.

The property is located in CASSIA/MINIDOKA County at SEE LEGAL DESCRIPTION, DECLO, Idaho 83323.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, crops, timber, all diversion payments or third party payments made to crop producers and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described (all referred to as Property). This Security Instrument will remain in effect until the Secured Debts and all underlying agreements have been terminated in writing by Lender.

2. MAXIMUM OBLIGATION LIMIT. The total principal amount secured by this Security Instrument at any one time will not exceed \$165,000.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

3. SECURED DEBTS. The term "Secured Debts" includes and this Security Instrument will secure each of the following:

A. Specific Debts. The following debts and all extensions, renewals, refinancings, modifications and replacements. A promissory note or other agreement, No. 1212123742/12, dated December 22, 2006, from Mortgagor to Lender, with a loan amount of \$165,000.00, with an initial interest rate of 9.75 percent per year (this is a variable interest rate and may change as the promissory note prescribes) and maturing on December 5, 2021.

B. Sums Advanced. All sums advanced and expenses incurred by Lender under the terms of this Security Instrument when the evidence of indebtedness specifically states that it is secured by this Security Instrument.

4. PAYMENTS. Mortgagor agrees that all payments under the Secured Debts will be paid when due and in accordance with the terms of the Secured Debts and this Security Instrument. Mortgagor acknowledges that the interest rate, payment terms, or balance due on the loan may be indexed, adjusted, renewed or renegotiated.

5. WARRANTY OF TITLE. Mortgagor warrants that Mortgagor is or will be lawfully seized of the estate conveyed by this Security Instrument and has the right to grant, bargain, convey, sell and mortgage the Property. Mortgagor also warrants that the Property is unencumbered, except for encumbrances of record.

6. PRIOR SECURITY INTERESTS. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees:

A. To make all payments when due and to perform or comply with all covenants.

B. To promptly deliver to Lender any notices that Mortgagor receives from the holder.

C. Not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written consent.

7. CLAIMS AGAINST TITLE. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property.

8. DUE ON SALE OR ENCUMBRANCE. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, any lien, encumbrance, transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law (12 C.F.R. 591), as applicable.

9. WARRANTIES AND REPRESENTATIONS. Mortgagor has the right and authority to enter into this Security Instrument. The execution and delivery of this Security Instrument will not violate any agreement governing Mortgagor or to which Mortgagor is a party.

10. PROPERTY CONDITION, ALTERATIONS AND INSPECTION. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor will not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor will keep the Property free of noxious weeds and grasses. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims, and actions against Mortgagor, and of any loss or damage to the Property.

No portion of the Property will be removed, demolished or materially altered without Lender's prior written consent except that Mortgagor has the right to remove items of personal property comprising a part of the Property that become worn or obsolete, provided that such personal property is replaced with other personal property at least equal in value to the replaced personal property, free from any title retention device, security agreement or other encumbrance. Such replacement of personal property will be deemed subject to the security interest created by this Security Instrument. Mortgagor will not partition or subdivide the Property without Lender's prior written consent.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Lender will give Mortgagor notice at the time of or before an inspection specifying a reasonable purpose for the inspection. Any inspection of the Property will be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

11. AUTHORITY TO PERFORM. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor will not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument. If any construction on the Property is discontinued or not carried on in a reasonable manner, Lender may take all steps necessary to protect Lender's security interest in the Property, including completion of the construction.

12. ASSIGNMENT OF LEASES AND RENTS. Mortgagor absolutely, unconditionally, irrevocably and immediately assigns, grants, bargains, conveys and mortgages to Lender all the right, title and interest in the following (Property).

A. Existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including but not limited to any extensions, renewals, modifications or replacements (Leases).

B. Rents, issues and profits, including but not limited to security deposits, minimum rents, percentage rents, additional rents, common area maintenance charges, parking charges, real estate taxes, other applicable taxes, insurance premium contributions, liquidated damages following default, cancellation premiums, "loss of rents" insurance, guest receipts, revenues, royalties, proceeds, bonuses, accounts, contract rights, general

intangibles, and all rights and claims which Mortgagor may have that in any way pertain to or are on account of the use or occupancy of the whole or any part of the Property (Rents).

In the event any item listed as Leases or Rents is determined to be personal property, this Assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the Assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Lender grants Mortgagor a revocable license to collect, receive, enjoy and use the Rents so long as Mortgagor is not in default. Mortgagor's default automatically and immediately revokes this license. Mortgagor will not collect in advance any Rents due in future lease periods, unless Mortgagor first obtains Lender's written consent. Amounts collected will be applied at Lender's discretion to the Secured Debts, the costs of managing, protecting and preserving the Property, and other necessary expenses. Upon default, Mortgagor will receive any Rents in trust for Lender and Mortgagor will not commingle the Rents with any other funds. When Lender so directs, Mortgagor will endorse and deliver any payments of Rents from the Property to Lender. Mortgagor agrees that Lender will not be considered to be a mortgagee-in-possession by executing this Security Instrument or by collecting or receiving payments on the Secured Debts, but only may become a mortgagee-in-possession after Mortgagor's license to collect, receive, enjoy and use the Rents is revoked by Lender or automatically revoked on Mortgagor's default, and Lender takes actual possession of the Property. Consequently, until Lender takes actual possession of the Property, Lender is not obligated to perform or discharge any obligation of Mortgagor under the Leases, appear in or defend any action or proceeding relating to the Rents, the Leases or the Property, or be liable in any way for any injury or damage to any person or property sustained in or about the Property. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Assignment. As long as this Assignment is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants. Mortgagor, at its sole cost and expense, will keep, observe and perform, and require all other parties to the Leases to comply with the Leases and any applicable law. If Mortgagor or any party to the Lease defaults or fails to observe any applicable law, Mortgagor will promptly notify Lender. If Mortgagor neglects or refuses to enforce compliance with the terms of the Leases, then Lender may, at Lender's option, enforce compliance. Mortgagor will not sublet, modify, extend, cancel, or otherwise alter the Leases, or accept the surrender of the Property covered by the Leases (unless the Leases so require) without Lender's consent. Mortgagor will not assign, compromise, subordinate or encumber the Leases and Rents without Lender's prior written consent. Lender does not assume or become liable for the Property's maintenance, depreciation, or other losses or damages when Lender acts to manage, protect or preserve the Property, except for losses and damages due to Lender's gross negligence or intentional torts. Otherwise, Mortgagor will indemnify Lender and hold Lender harmless for all liability, loss or damage that Lender may incur when Lender opts to exercise any of its remedies against any party obligated under the Leases.

13. DEFAULT. Mortgagor will be in default if any of the following occur:

- A. Payments.** Mortgagor fails to make a payment in full when due.
- B. Insolvency or Bankruptcy.** The death, dissolution or insolvency of, appointment of a receiver by or on behalf of, application of any debtor relief law, the assignment for the benefit of creditors by or on behalf of, the voluntary or involuntary termination of existence by, or the commencement of any proceeding under any present or future federal or state insolvency, bankruptcy, reorganization, composition or debtor relief law by or against Mortgagor, Borrower, or any co-signer, endorser, surety or guarantor of this Security Instrument or any other obligations Borrower has with Lender.
- C. Death or Incompetency.** Mortgagor dies or is declared legally incompetent.
- D. Failure to Perform.** Mortgagor fails to perform any condition or to keep any promise or covenant of this Security Instrument.
- E. Other Documents.** A default occurs under the terms of any other document relating to the Secured Debts.
- F. Other Agreements.** Mortgagor is in default on any other debt or agreement Mortgagor has with Lender.
- G. Misrepresentation.** Mortgagor makes any verbal or written statement or provides any financial information that is untrue, inaccurate, or conceals a material fact at the time it is made or provided.
- H. Judgment.** Mortgagor fails to satisfy or appeal any judgment against Mortgagor.
- I. Forfeiture.** The Property is used in a manner or for a purpose that threatens confiscation by a legal authority.
- J. Name Change.** Mortgagor changes Mortgagor's name or assumes an additional name without notifying Lender before making such a change.
- K. Property Transfer.** Mortgagor transfers all or a substantial part of Mortgagor's money or property. This condition of default, as it relates to the transfer of the Property, is subject to the restrictions contained in the DUE ON SALE section.
- L. Property Value.** Lender determines in good faith that the value of the Property has declined or is impaired.
- M. Erosion.** Any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce or make possible the production of an agricultural commodity, as further explained by federal law.
- N. Insecurity.** Lender determines in good faith that a material adverse change has occurred in Mortgagor's financial condition from the conditions set forth in Mortgagor's most recent financial statement before the date of this Security Instrument or that the prospect for payment or performance of the Secured Debts is impaired for any reason.

14. REMEDIES. On or after default, Lender may use any and all remedies Lender has under state or federal law or in any document relating to the Secured Debts. Any amounts advanced on Mortgagor's behalf will be

immediately due and may be added to the balance owing under the Secured Debts. Lender may make a claim for any and all insurance benefits or refunds that may be available on Mortgagor's default.

Subject to any right to cure, required time schedules or any other notice rights Mortgagor may have under federal and state law, Lender may make all or any part of the amount owing by the terms of the Secured Debts immediately due and foreclose this Security Instrument in a manner provided by law upon the occurrence of a default or anytime thereafter.

All remedies are distinct, cumulative and not exclusive, and the Lender is entitled to all remedies provided at law or equity, whether or not expressly set forth. The acceptance by Lender of any sum in payment or partial payment on the Secured Debts after the balance is due or is accelerated or after foreclosure proceedings are filed will not constitute a waiver of Lender's right to require full and complete cure of any existing default. By not exercising any remedy, Lender does not waive Lender's right to later consider the event a default if it continues or happens again.

15. REDEMPTION. The period of redemption after sale on foreclosure will be one year if the real property sold consisted of a tract of land of more than twenty (20) acres, and within six (6) months after the sale if the real property sold consisted of a tract of land of twenty (20) acres or less. Any agreement to extend the redemption period must be in writing.

16. COLLECTION EXPENSES AND ATTORNEYS' FEES. On or after Default, to the extent permitted by law, Mortgagor agrees to pay all expenses of collection, enforcement or protection of Lender's rights and remedies under this Security Instrument or any other document relating to the Secured Debts. Mortgagor agrees to pay expenses for Lender to inspect and preserve the Property and for any recordation costs of releasing the Property from this Security Instrument. Expenses include, but are not limited to, attorneys' fees, court costs and other legal expenses. These expenses are due and payable immediately. If not paid immediately, these expenses will bear interest from the date of payment until paid in full at the highest interest rate in effect as provided for in the terms of the Secured Debts. In addition, to the extent permitted by the United States Bankruptcy Code, Mortgagor agrees to pay the reasonable attorneys' fees incurred by Lender to protect Lender's rights and interests in connection with any bankruptcy proceedings initiated by or against Mortgagor.

17. ENVIRONMENTAL LAWS AND HAZARDOUS SUBSTANCES. As used in this section, (1) Environmental Law means, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 U.S.C. 9601 et seq.), all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) Hazardous Substance means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substance," "hazardous waste," "hazardous substance," or "regulated substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

A. Except as previously disclosed and acknowledged in writing to Lender, no Hazardous Substance has been, is, or will be located, transported, manufactured, treated, refined, or handled by any person on, under or about the Property, except in the ordinary course of business and in strict compliance with all applicable Environmental Law.

B. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has not and will not cause, contribute to, or permit the release of any Hazardous Substance on the Property.

C. Mortgagor will immediately notify Lender if (1) a release or threatened release of Hazardous Substance occurs on, under or about the Property or migrates or threatens to migrate from nearby property; or (2) there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor will take all necessary remedial action in accordance with Environmental Law.

D. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor has no knowledge of or reason to believe there is any pending or threatened investigation, claim, or proceeding of any kind relating to (1) any Hazardous Substance located on, under or about the Property; or (2) any violation by Mortgagor or any tenant of any Environmental Law. Mortgagor will immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any such pending or threatened investigation, claim, or proceeding. In such an event, Lender has the right, but not the obligation, to participate in any such proceeding including the right to receive copies of any documents relating to such proceedings.

E. Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are and will remain in full compliance with any applicable Environmental Law.

F. Except as previously disclosed and acknowledged in writing to Lender, there are no underground storage tanks, private dumps or open wells located on or under the Property and no such tank, dump or well will be added unless Lender first consents in writing.

G. Mortgagor will regularly inspect the Property, monitor the activities and operations on the Property, and confirm that all permits, licenses or approvals required by any applicable Environmental Law are obtained and complied with.

H. Mortgagor will permit, or cause any tenant to permit, Lender or Lender's agent to enter and inspect the Property and review all records at any reasonable time to determine (1) the existence, location and nature of any Hazardous Substance on, under or about the Property; (2) the existence, location, nature, and magnitude of any Hazardous Substance that has been released on, under or about the Property; or (3) whether or not Mortgagor and any tenant are in compliance with applicable Environmental Law.

I. Upon Lender's request and at any time, Mortgagor agrees, at Mortgagor's expense, to engage a qualified environmental engineer to prepare an environmental audit of the Property and to submit the results of such

audit to Lender. The choice of the environmental engineer who will perform such audit is subject to Lender's approval.

J. Lender has the right, but not the obligation, to perform any of Mortgagor's obligations under this section at Mortgagor's expense.

K. As a consequence of any breach of any representation, warranty or promise made in this section, (1) Mortgagor will indemnify and hold Lender and Lender's successors or assigns harmless from and against all losses, claims, demands, liabilities, damages, cleanup, response and remediation costs, penalties and expenses, including without limitation all costs of litigation and attorneys' fees, which Lender and Lender's successors or assigns may sustain; and (2) at Lender's discretion, Lender may release this Security Instrument and in return Mortgagor will provide Lender with collateral of at least equal value to the Property without prejudice to any of Lender's rights under this Security Instrument.

L. Notwithstanding any of the language contained in this Security Instrument to the contrary, the terms of this section will survive any foreclosure or satisfaction of this Security Instrument regardless of any passage of title to Lender or any disposition by Lender of any or all of the Property. Any claims and defenses to the contrary are hereby waived.

18. CONDEMNATION. Mortgagor will give Lender prompt notice of any pending or threatened action by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds will be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

19. INSURANCE. Mortgagor agrees to keep the Property insured against the risks reasonably associated with the Property. Mortgagor will maintain this insurance in the amounts Lender requires. This insurance will last until the Property is released from this Security Instrument. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debts. Mortgagor may choose the insurance company, subject to Lender's approval, which will not be unreasonably withheld.

All insurance policies and renewals will include a standard "mortgage clause" and, where applicable, "loss payee clause." If required by Lender, Mortgagor agrees to maintain comprehensive general liability insurance and rental loss or business interruption insurance in amounts and under policies acceptable to Lender. The comprehensive general liability insurance must name Lender as an additional insured. The rental loss or business interruption insurance must be in an amount equal to at least coverage of one year's debt service, and required escrow account deposits (if agreed to separately in writing).

Mortgagor will give Lender and the insurance company immediate notice of any loss. All insurance proceeds will be applied to restoration or repair of the Property or to the Secured Debts, at Lender's option. If Lender acquires the Property in damaged condition, Mortgagor's rights to any insurance policies and proceeds will pass to Lender to the extent of the Secured Debts.

Mortgagor will immediately notify Lender of cancellation or termination of insurance. If Mortgagor fails to keep the Property insured, Lender may obtain insurance to protect Lender's interest in the Property and Mortgagor will pay for the insurance on Lender's demand. Lender may demand that Mortgagor pay for the insurance all at once, or Lender may add the insurance premiums to the balance of the Secured Debts and charge interest on it at the rate that applies to the Secured Debts. This insurance may include coverages not originally required of Mortgagor, may be written by a company other than one Mortgagor would choose, and may be written at a higher rate than Mortgagor could obtain if Mortgagor purchased the insurance. Mortgagor acknowledges and agrees that Lender or one of Lender's affiliates may receive commissions on the purchase of this insurance.

20. ESCROW FOR TAXES AND INSURANCE. Mortgagor will not be required to pay to Lender funds for taxes and insurance in escrow.

21. CO-SIGNERS. If Mortgagor signs this Security Instrument but is not otherwise obligated to pay the Secured Debts, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debts and Mortgagor does not agree by signing this Security Instrument to be personally liable on the Secured Debts. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws.

22. WAIVERS. Except to the extent prohibited by law, Mortgagor waives all appraisal and homestead exemption rights relating to the Property.

23. FIXTURE FILING. Mortgagor gives to Lender a security interest in all goods that Mortgagor owns now or in the future and that are or will become fixtures related to the Property.

24. OTHER TERMS. The following are applicable to this Security Instrument:

A. Additional Terms. DEFAULT SHALL ALSO EXIST IF ANY LOAN PROCEEDS ARE USED FOR A PURPOSE THAT WILL CONTRIBUTE TO EXCESSIVE EROSION OF HIGHLY ERODIBLE LAND OR TO THE CONVERSION OF WETLAND TO PRODUCE OR TO MAKE POSSIBLE THE PRODUCTION OF AN AGRICULTURAL COMMODITY, FURTHER EXPLAINED IN 7 CFR, PART 1940, SUBPART G, EXHIBIT M.

25. APPLICABLE LAW. This Security Instrument is governed by the laws of Idaho, the United States of America, and to the extent required, by the laws of the jurisdiction where the Property is located, except to the extent such state laws are preempted by federal law.

26. JOINT AND INDIVIDUAL LIABILITY AND SUCCESSORS. Each Mortgagor's obligations under this Security Instrument are independent of the obligations of any other Mortgagor. Lender may sue each Mortgagor

individually or together with any other Mortgagor. Lender may release any part of the Property and Mortgagor will still be obligated under this Security Instrument for the remaining Property. Mortgagor agrees that Lender and any party to this Security Instrument may extend, modify or make any change in the terms of this Security Instrument or any evidence of debt without Mortgagor's consent. Such a change will not release Mortgagor from the terms of this Security Instrument. The duties and benefits of this Security Instrument will bind and benefit the successors and assigns of Lender and Mortgagor.

27. AMENDMENT, INTEGRATION AND SEVERABILITY. This Security Instrument may not be amended or modified by oral agreement. No amendment or modification of this Security Instrument is effective unless made in writing and executed by Mortgagor and Lender. This Security Instrument and any other documents relating to the Secured Debts are the complete and final expression of the agreement. If any provision of this Security Instrument is unenforceable, then the unenforceable provision will be severed and the remaining provisions will still be enforceable.

28. INTERPRETATION. Whenever used, the singular includes the plural and the plural includes the singular. The section headings are for convenience only and are not to be used to interpret or define the terms of this Security Instrument.

29. NOTICE, FINANCIAL REPORTS, ADDITIONAL DOCUMENTS AND RECORDING TAXES. Unless otherwise required by law, any notice will be given by delivering it or mailing it by first class mail to the appropriate party's address listed in the DATE AND PARTIES section, or to any other address designated in writing. Notice to one Mortgagor will be deemed to be notice to all Mortgagors. Mortgagor will inform Lender in writing of any change in Mortgagor's name, address or other application information. Mortgagor will provide Lender any financial statements or information Lender requests. All financial statements and information Mortgagor gives Lender will be correct and complete. Mortgagor agrees to pay all expenses, charges and taxes in connection with the preparation and recording of this Security Instrument. Mortgagor agrees to sign, deliver, and file any additional documents or certifications that Lender may consider necessary to perfect, continue, and preserve Mortgagor's obligations under this Security Instrument and to confirm Lender's lien status on any Property, and Mortgagor agrees to pay all expenses, charges and taxes in connection with the preparation and recording thereof. Time is of the essence.

SIGNATURES. By signing, Mortgagor agrees to the terms and covenants contained in this Security Instrument. Mortgagor also acknowledges receipt of a copy of this Security Instrument.

MORTGAGOR:

Denis C. Kowitz
DENIS C. KOWITZ

Individually

Laurie K. Kowitz
LAURIE K. KOWITZ

Individually

ACKNOWLEDGMENT.

(Individual)

State OF Idaho, County OF Carria ss.
On this 26 day of December, 2006, before me
Kent C. Gunnell a Notary Public, personally appeared DENIS C. KOWITZ, HUSBAND,
and LAURIE K. KOWITZ, WIFE, known or identified to me (or proved to me on the oath of
Kent C. Gunnell), to be the person(s) whose name(s) is/are subscribed to the within
instrument, and acknowledged to me that he/she/they executed the same.

My commission expires:

12-15-2010

City of Residence: Burley, ID

Kent C. Gunnell
(Notary Public)

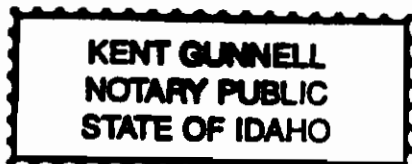


EXHIBIT "A"

PARCEL NO. 1:

TOWNSHIP 9 SOUTH, RANGE 25 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 29: W½SW¼ of said Section 29, SAVE AND EXCEPTING that portion lying South
and East of the Main South Side Canal.

PARCEL NO. 2:

TOWNSHIP 10 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO

Section 14: Part of the SW¼NW¼, more particularly described as follows:

Beginning at a point where the South line of said SW¼NW¼ intersects
the East boundary line of State Highway 77;
Thence East along section line for 250 feet;
Thence North parallel with the East boundary line of said State Highway
560 feet;
Thence West 250 feet, more or less, to the East boundary line of said State
Highway;
Thence South along the East boundary line of said State Highway to the
Point of Beginning.

PARCEL NO. 3:

TOWNSHIP 10 SOUTH, RANGE 24 EAST OF THE BOISE MERIDIAN,
MINIDOKA COUNTY, IDAHO

Section 4: Part of the SW¼SW¼, more particularly described as follows:

Beginning at the Southwest corner of said Section 4, said corner marked by a
brass cap which shall be the Point of Beginning;
Thence North 0°04'00" West along section line for
733.25 feet to a P.K. Nail;
Thence North 72°05'15" East along the centerline of irrigation lateral 423 for
428.70 feet to a point;
Thence North 83°17'45" East along said irrigation lateral centerline for 344.03
feet to a ½ inch rebar;
Thence North 50°18'14" East along said irrigation lateral centerline for 229.62
feet to a point;
Thence North 66°34'27" East along said irrigation lateral centerline for 122.68
feet to a point;
Thence North 74°40'44" East along said irrigation lateral centerline for 292.37
feet to a point on the East line of the SW¼SW¼;
Thence South 0°02'00" East along the East line of the SW¼SW¼ for 13.72 feet
to a ½ inch rebar;
Thence South 0°02'00" East along the East line of the SW¼SW¼ for 1159.62
feet to a P.K. Nail at the Southeast corner of the SW¼SW¼;
Thence South 89°48'00" West along section line for 1320.66 feet to the Point of
Beginning.

- Continued -

PARCEL NO. 4:

TOWNSHIP 10 SOUTH, RANGE 24 EAST OF BOISE MERIDIAN,
MINIDOKA COUNTY, IDAHO

Section 3: NW¼SE¼ and Government Lot 1

EXCEPTING THEREFROM, the following described tracts:

Tract No. 1:

That parcel of land lying and being in the County of Minidoka, State of Idaho, bounded and particularly described as follows, to-wit:

Being a right of way for a public road situated in the N½SE¼ of said Section 3, described to-wit:

A tract of land bounded on the West by a portion of a line beginning at a point 1897 feet East of the ¼ Section corner between Sections 3 and 10, and running in a northeasterly direction to a point 620 feet South of the ¼ section corner between sections 2 and 3 and bounded on the East by the natural meander line of Snake River.

Tract No. 2:

A strip of land bounded by and included within a line beginning at a point 790 feet due South of the E¼ corner of said Section3;

Thence South 22° West a distance of 50 feet to the place of beginning of the boundary line of strip of land;

Thence North 68° West a distance of 50 feet;

Thence South 22° West a distance of 100 feet;

Thence South 68° East a distance of 50 feet;

Thence North 22° East a distance of 100 feet to the PLACE OF BEGINNING.

Tract No. 3:

A strip of land bounded by and included within a line beginning at a point South 03° West 3430 feet of the Northeast section corner of said Section3;

Thence North 89°57' West 20.4 feet to the Place of Beginning of the boundary of the strip of land herein conveyed;

Thence North 89°57' West 40 feet;

Thence South 0°3' West 40 feet;

Thence South 89°57' East 40 feet;

Thence North 0°3' East 40 feet to the PLACE OF BEGINNING.

Tract No. 4:

A parcel of land, being on the Westerly side of the center line of highway as surveyed and shown on the official plat of the North Side St. 2864(501) Highway Survey on file in the office of the Department of Highways of the State of Idaho, and lying situate in a portion of Lot 1 of said Section 3;

Beginning at the point of intersection of the Westerly right of way of the present North Side Highway with the North line of Lot 1, Section 3 and being approximately 30.0 feet West from the E $\frac{1}{4}$ corner of said Section 3; Thence West 20.0 feet, more or less, to a point;
Thence South 0°05' West along a line parallel to and 40.0 feet distance Westerly from the center line of the North Side St. 2864 (501) Highway Survey a distance of 236.6 feet, more or less, to a point which bears North 89°55' West 40.0 feet distance from Station 28-88.4 of said Highway Survey;
Thence continuing South 0°05' West a distance of 30.0 feet, more or less, to a point;
Thence East 20.0 feet, more or less, to a point in the Westerly right of way line of the present North Side Highway;
Thence Northerly along the Westerly right of way line of said present Highway a distance of 267.0 feet, more or less, to the POINT OF BEGINNING.

Tract No. 5:

Beginning at the E $\frac{1}{4}$ Section corner of Section 3, said corner marked by a 5/8 inch rebar; Thence South 89°54'19" West along the North line of Lot 1 for a distance of 39.89 feet to a 1/2 inch rebar on the West line of State Highway 77, which shall be the Point of Beginning;
Thence South 00°08'52" West along the West right of way of State Highway 77 for a distance of 266.17 feet to a 1/2 inch rebar;
Thence North 89°51'33" East along said highway right of way for a distance of 39.83 feet to a 1/2 inch rebar on the East line of Lot 1;
Thence South 00°09'41" West along the East line of Lot 1 for a distance of 56.58 feet to a 1/2 inch rebar;
Thence South 89°54'19" West for a distance of 301.93 feet;
Thence North 00°09'41" East for a distance of 322.72 feet to the North line of Lot 1;
Thence North 89°54'19" East along the North line of Lot 1 for a distance of 262.04 feet to the Point of Beginning.