

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATION)
FOR TEMPORARY CHANGE OF A)
WATER RIGHT 22-13664,)
22-7215B, + 22-7215C)
_____)

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-22-13

2007

WHEREAS, a drought emergency has been declared for TETON County to a administrative actions to lessen the severe impacts of the drought conditions in the county; and

WHEREAS, section 42-222A, Idaho Code, provides that upon declaration of a drought emergency the director of the Department of Water Resources ("Department") is authorized to allow temporary changes in the point of diversion, the place of use, and the purposes of use for valid existing water rights or temporary exchanges of water authorized under water rights when the director determines that such changes can be accomplished in accordance with the provisions of section 42-222A, Idaho Code; and

WHEREAS, on JULY 25, 2007, BLACKFOOT FARMS, LLC submitted the attached Temporary Change Application TC-22-13 to the Department; and

WHEREAS, the Department has reviewed the application and has determined the application can be approved with certain conditions;

ORDER

IT IS HEREBY ORDERED that the application is **APPROVED** subject to the following conditions:

1. Diversion and use of right no(s) 22-13664, 22-7215B + 22-7215C is authorized only at the point of diversion and place of use described on the application.
2. This temporary Change approval does not authorize construction of a new well as a point of diversion.
3. The applicant assumes all risk of curtailment or mitigation should the diversion and use of water under the temporary change approval cause injury to other water rights, constitute an enlargement in use of the original right, be inconsistent with the conservation of water resources within the state of Idaho, or not be in the local public interest.
4. This temporary change approval may only be used to provide a replacement water supply to lands or other uses that normally have a full water supply, except for the drought conditions. This temporary change approval may not be used to provide water for new development or to allow expansion of the use of water under existing water rights.

**ORDER AUTHORIZING
TEMPORARY CHANGE**

TC-22-13

5. Right(s) 22-13664, 22-7215B, & 22-7215C are limited to the irrigation of a total of 70.6 acres in a single irrigation season.
6. This temporary approval does not authorize the use of diversion works or a delivery system owned by or managed by a corporation or an irrigation district without the written consent of such corporation or irrigation district.
7. The applicants agree to hold the director and the state of Idaho harmless from all liability on account of the diversion and use of water under this temporary change approval.
8. This temporary change does not grant any right-of-way or easement to use the diversion works or conveyance works of another person or entity.
9. The applicant is subject to all conditions and limitations listed on the application under the section titled "ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES".
10. The applicant shall measure the amount of water diverted and shall report the amount of water diverted under this approval.
11. The Watermaster of Water District No. _____ is authorized to administer the temporary change approval.
12. This Temporary change approval expires on OCTOBER 31, 2007 unless rescinded or extended by the director. Thereafter, the water right shall revert to the point of diversion, place of use, and nature of use existing prior to the temporary change approval.

DATED this 27TH day of JULY, 2007.



Lyle Swank
Eastern Regional Manager

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TEMPORARY CHANGE APPLICATION

(To change point of diversion, place of use or purpose of use)

Name of Applicant BLACKFOOT FARMS, LLC Phone 801-584-5700Post Office Address 500 Huntsman Way, Salt Lake City, UT 84108

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change purpose of use ☐ Other

2. Describe the proposed change(s) and the reason(s) thereof We are putting down new sod in our subdivision for green areas and a golf course area. This new place of use has Grand Teton Canal shares.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>22-13664</u>	<u>3/03/1977</u>	<u>0.33 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
<u>22-7215 B</u>	<u>3/03/1977</u>	<u>0.68 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>
<u>22-7215 C</u>	<u>3/03/1977</u>	<u>0.40 cfs</u>	<u>Irrigation</u>	<u>4/15</u> to <u>10/15</u>

2. Total amount of water being transferred 1.41 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Ground water tributary to _____

4. Point(s) of Diversion:

Ident No.	Lot	¼	¼	¼	Sec	Twp	Rge	County	Local name for diversion
			NW	SW	24	5N	45E	Teton	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
5N	45E	26							9			14	7.6						30.6
		27			5	16.5								10	35		5		40

Total Acres 70.6

6. General Information:

- a. Who owns the water right to be changed? Applicant
- b. Describe the arrangement allowing use of the right _____
- c. Describe the affect on the land now irrigated if the change is approved pursuant to this application:
This land will be dried up.
- d. Has the water right sought to be transferred been used this year? NO If yes, explain. _____
- e. Absent the changes, how would the right be used for the remainder of the year? NA.
- f. Describe other water rights used for the same purpose.
New P.O.U. has Canal Shares - Grand Teton Canal
- g. Remarks: _____

I hereby assume all risk in accordance with Section 42-222A, Idaho Code, and assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in voiding its approval.

Gary D. Weller for Blackfoot Irrigation
(Signature of applicant)

FOR DEPARTMENT USE ONLY

Received by MWA Date 7/25/2007 Fee \$ 50

Received MWA # E033156 Recommend: ☒ approve ☐ deny

Watermaster recommendation Lyle Swank

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Temporary Change Application No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____,

For the Director

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7215B V1

WATER RIGHT NUMBER: 22-7215B V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THOMAS M UNDERHILL 6017 W CASTLEGATE DR #F15 CASTLEROCK, CO 80108
Original Owner	JAMES E HATCH PO BOX 2 DRIGGS, ID 83422 (208)354-8248

Priority Date: 03/03/1977

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	0.680 CFS	102.00 AF
	<u>Total Diversion:</u>	0.680 CFS	102.00 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4SW1/4	Sec. 24, Twp 05N, Rge 45E, B.M.
TETON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	45E	23													20.0	10.0		4.0	34.0

Total Acres: 34

Conditions of Approval:

1. S37 The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 22-7215C V1

WATER RIGHT NUMBER: 22-7215C V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	AIR ASSN PO BOX 81 DRIGGS, ID 83422 (208)254-1269

Priority Date: 03/03/1977

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/15 to 10/15	0.400 CFS	78.00 AF
	<u>Total Diversion:</u>	0.400 CFS	78.00 AF

Location of Point(s) of Diversion

GROUND WATER	NW1/4SW1/4	Sec. 24, Twp 05N, Rge 45E, B.M.
TETON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
05N	45E	24																	20.0

Total Acres: 20

Conditions of Approval:

1. S37 The use of water for irrigation under this right may continue to as late as October 31, provided other elements of the right are not exceeded. The use of water after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
2. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

Remarks:

* See comment on 2nd page

Close

"PENDING"

TRANSFER NO. 73308

COUNTY OF TETON FAIR BOARD

PO BOX 146

DRIGGS ID 83422, has filed Application No. 73308 for changes to the following water rights within
County: TETON

Applicant's Statement of Purpose: Sale of water right and well retained portion of water right, would
like to add to water right 22-7602

Purpose of Transfer	Water Right Number
Change Point Of Diversion	22-7215A

Right No. 22-7215A**Priority** Mar 3 1977 12:00AM**Source** GROUND WATER,**Use** IRRIGATION(18.9 acres) 0.38 CFS 66.15 AFA,**Total Amount** 0.38 CFS 66.15 AFA**Point(s) of Diversion**

Township	Range	Section	OOO	OO	Quarter	GovernmentLotNumber
05N	45E	24		NW	SW	

Place Of Use

Place of Use Legal Description: IRRIGATION TETON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
05N	45E	23		NESE 13		NWSE	5.9				

Total Acres: 18.9

The purpose of the transfer is to change the above rights a follows:

Proposed Right No. 22-13665**Priority** Mar 3 1977 12:00AM**Source** GROUND WATER,**Use** IRRIGATION(2.3 acres) 0.05 CFS 7 AFA,**Total Amount** 0.05 CFS 7 AFA

Township	Range	Section	OOO	OO	Quarter	GovernmentLotNumber
05N	45E	23		NW	SE	

Place Of Use

Place of Use Legal Description: IRRIGATION TETON County

LIMITED POWER OF ATTORNEY

BLACKFOOT FARMS, LLC, WILLIAM E. REID, CEO, of 97 North Highway 33, Driggs, Idaho 83422, designate and appoint HARVEY WALKER of 2338 North 2930 West, Arco, ID 83213, as our attorney in fact and agent (subsequently called "agent") to act in our name and for our benefit. We grant to our agent full power and authority to do everything necessary in exercising any of the powers herein granted as fully as we might or could do if personally present and fully competent, hereby ratifying and confirming all that our agent shall lawfully do or cause to be done by virtue of this power of attorney and the powers herein granted.

Specific Powers

Our agent shall have and may exercise the following specific power:

- a. To handle all affairs and do all that needs done, including signing of documents, pertaining to water rights, wells and all water issues.

Revocability

This power of attorney is revocable, provided, that insofar as any governmental agency, bank, trust company, insurance company, transfer agent, or other person shall rely upon this power, this power may be revoked only by a notice in writing executed by us or our agent and delivered to such person or institution.

Interpretation

This instrument is to be construed and interpreted as a limited power of attorney.

Disability of Principal

This Limited Power of Attorney shall not be affected by disability of the principal.

Third-Party Reliance

Third parties may rely upon the representations of our agent as to all matters relating to any power granted to our agent, and no person who may act in reliance upon the representations of our agent or the authority granted to our agent shall incur any liability to us or our estate as a result of permitting our agent to exercise any power.

Expiration

Unless sooner revoked in the manner above provided, this Limited Power of Attorney shall expire at midnight on April 30, 2008.

Governing Law

This Limited Power of Attorney is executed and delivered in the State of Idaho and the laws of the State of Idaho shall govern all questions as to the validity of this power and as to the construction of its provisions.

IN WITNESS WHEREOF, we have executed this Limited Power of Attorney this 26 day of October, 2006.

BLACKFOOT FARMS, LLC, Principal

By William E. Reid
WILLIAM E. REID, CEO

STATE OF IDAHO)
) ss.
County of Teton)

On this 26 day of October, 2006, personally appeared before me WILLIAM E. REID, who, being by me first duly sworn, declared that he is the CEO of BLACKFOOT FARMS, LLC, that he signed the foregoing document as CEO of the corporation, and that the statements therein contained are true.



Pauline Bagley
Notary Public for Idaho
My Commission Expires: 8/2011

Law Offices
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER
CHARLES A. HOMER
GARY L. MEIKLE
DONALD L. HARRIS
DALE W. STORER
FREDERICK J. HAHN, III[†]
KARL R. DECKER
SHAN B. PERRY
DEANNE CASPERSON^{*}
AMELIA A. SHEETS
JAN N. ALLRED[♦]
ROBERT L. HARRIS

[†]Also licensed in Wyoming

^{*}Also licensed in Missouri and Kansas

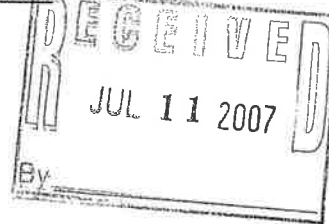
[♦]Also licensed in Utah and Colorado

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P.O. BOX 50130
IDAHO FALLS, IDAHO 83405

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Arthur W. Holden
(1877-1967)
Robert B. Holden
(1911-1971)
Terry L. Crapo
(1939-1982)
William S. Holden
(1907-1988)

Of Counsel
Fred J. Hahn
Marie T. Tyler



July 10, 2007

Randy Budge
Racine Olson Nye Budge & Bailey Chrtld.
201 E. Center
PO Box 1391
Pocatello, ID 83204-1391

Dear Randy:

Harvey Walker just came by and gave us copies of some documents which we very much appreciate. But there is still a problem with the "Water Transport Agreement". We assume it will need to be modified to contain the correct numbers. Our understanding is as follows.

Harvey gave us a copy of a "Memorandum of Agreement", dated the _____ day of June, 2006, between the "County of Teton Fair Board" as Seller, and Blackfoot Farms, as buyer. It recites that Fair Board has a claim to Water Right No. 22-7215A for 0.6 cfs and 90.0 acre feet. It then purports to convey to Blackfoot Farms 83 acre feet of this right and retain 7 acre feet for the Fair Board's use. This all appears to be correct as far as the SRBA claim of the Fair Board was concerned at that time.

The problem is, that when IDWR made its final recommendation to the SRBA Court, it recommended only 0.38 cfs and 66.15 afa for 18.9 acres for 22-7215A. Now the Fair Board has initiated a transfer proceeding, No. 73308, to split the right into two pieces with new numbers:

22-13664 - 0.33 cfs/59.15 afa for 16.6 acres

22-13665 - 0.5 cfs/7.00 afa for 2.3 acres

We presume the Fair Board intends to keep 22-13665 and to convey to Blackfoot Farms 22-13664, but it appears to us that a new document of conveyance will be needed.

Randy Budge
Racine Olsen, Nye Budge & Bailey, Chrtd.
July 10, 2007
Page 2 of 3

Our review of the final recommendations for 22-7215A and 22-7215C indicates they were recommended as follows:

22-7215A - 0.68 cfs/102 afa for 34 acres
22-7215C - 0.40 cfs/78 afa for 20 acres

And Harvey was kind enough to leave us copies of a "Memorandum of Agreement" signed by Michael Stears on behalf of Blackfoot Farms and by Thomas Underhill under which it appears Blackfoot Farms is to receive all of 22-7215B from Underhill. There is a second copy of the same "Memorandum of Agreement" signed by Michael Stears of Blackfoot Farms and by Kent Hillman, a partner in AIR Associates, under which it appears Blackfoot Farms is to receive all of 22-7215C.

So, if we add 22-13664 to 22-7215B and 22-7215C, we show the following:

22-13664 - 0.33 cfs/59.15 afa for 16.6 acres
22-7215B - 0.68 cfs/102 afa for 34.0 acres
22-7215C - 0.40 cfs/78 afa for 20.0 acres
Totals: ~~1.46 cfs/246.15 afa for 76.9 acres~~ - 1.41 cfs 70.6 acres *did*

Harvey indicated he was going to file Notices of Change of Ownership, we assume for each of the three rights, although we have seen no deeds and question whether the documents we have seen really constitute instruments of conveyance. As you know, each of the water rights is a real property right and normally IDWR likes to see formal recorded instruments of conveyance before approving a change of ownership. Harvey also indicated he was going to file applications for temporary transfers of these rights. We do not know why temporary transfers would be preferable to a permanent transfer application, which the "Water Transport Agreement" seems to contemplate. Perhaps IDWR approval can be obtained faster for a temporary transfer, but a permanent transfer will be needed ultimately in any event, will it not?

Perhaps the "Water Transport Agreement" can be modified to accomplish the objectives of the parties. Please let us know how you wish to do it.

Randy Budge
Racine Olsen, Nye Budge & Bailey, Chrtd.
July 10, 2007
Page 3 of 3

Yours very truly,



Kent W. Foster

c: Board of Directors, Grand Teton Canal Co.

G:\WPDATA\KWF\1040 GRAND TETON CANAL CO\Correspondence\Randy Budge ltr 071007.wpd:cdv

WATER TRANSPORT AGREEMENT

Grand Teton Canal Company Limited Blackfoot Farms, L.C.

AGREEMENT effective this 19th day of June, 2007, between Grand Teton Canal Company Limited, an Idaho Corporation (hereinafter "the Canal Company"), and Blackfoot Farms, L.C., a Utah Limited Liability Company (hereinafter "Blackfoot Farms"), collectively referred to as the "parties."

RECITALS

A. WHEREAS, Blackfoot Farms owns Water Right Numbers 22-7215A, 22-7215B, and 22-7215C (hereinafter the "well water rights"), for which the point of diversion is a well located in the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 24, Township 5 North, Range 45 East, Boise Meridian (hereinafter the "Blackfoot Farms well"); and

B. WHEREAS, Blackfoot Farms desires to change the place of use under its well water right numbers 22-7215A, 22-7215B, and 22-7215C to property located in the W1/2 of Section 26, Township 5 South, Range 45 East, B.M., and has filed with the Idaho Department of Water Resources an Application for Transfer to accomplish such change, which transfer remains pending and subject to unresolved objections in the SRBA Court to the number of acres under Water Right No. 22-7215A; and

C. WHEREAS, the Canal Company owns and operates a lateral ditch commonly known as the "Curtis-Johnson Ditch," which passes adjacent to the Blackfoot Farms well and runs due west for a distance of approximately three-quarters ($\frac{3}{4}$) of a mile, at which point the ditch divides into two separate branches, with one branch flowing north (the "Johnson Branch") and one branch flowing south (the "Curtis Branch") to the proposed new place of use of Blackfoot Farms well water rights; and

D. WHEREAS, the parties desire to enter into this agreement to provide for the transport of Blackfoot Farms' well water rights via the Curtis-Johnson Ditch and Curtis branch upon the terms and conditions set forth below.

WATER TRANSPORT AGREEMENT

Grand Teton Canal Company Limited Blackfoot Farms, L.C.

AGREEMENT effective this 19 day of June, 2007, between Grand Teton Canal Company Limited, an Idaho Corporation (hereinafter "the Canal Company"), and Blackfoot Farms, L.C., a Utah Limited Liability Company (hereinafter "Blackfoot Farms"), collectively referred to as the "parties".

RECITALS

A. WHEREAS, Blackfoot Farms owns Water Right Numbers 22-7215A, 22-7215B, and 22-7215C (hereinafter the "well water rights"), for which the point of diversion is a well located in the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 24, Township 5 North, Range 45 East, Boise Meridian (hereinafter the "Blackfoot Farms well"); and

B. WHEREAS, Blackfoot Farms desires to change the place of use under its well water rights to an 81.7 acre parcel of property located in the West $\frac{1}{2}$ of Section 26, Township 5 North, Range 45 East, Boise Meridian, and has filed with the Idaho Department of Water Resources (IDWR) Transfer No. _____ to accomplish such change; and

C. WHEREAS, the Canal Company owns and operates a lateral ditch commonly known as the "Curtis-Johnson Ditch," which passes adjacent to the Blackfoot Farms well and runs due west for a distance of approximately three-quarters ($\frac{3}{4}$) of a mile, at which point the ditch divides into two separate branches, with one branch flowing north (the "Johnson Branch") and one branch flowing south (the "Curtis Branch") to the proposed new place of use of Blackfoot Farms well water rights; and

D. WHEREAS, the parties desire to enter into this agreement to provide for the transport of Blackfoot Farms' well water rights via the Curtis-Johnson Ditch and Curtis branch upon the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Transport.** Provided that the ditches have adequate capacity, the Canal Company agrees to transport Blackfoot Farms' well water rights via the Curtis-Johnson Ditch and Curtis Branch from the point at which the Curtis-Johnson Ditch passes the Blackfoot Farms well to a point on the Curtis Branch approximately $\frac{1}{4}$ mile south of where the Curtis-Johnson ditch divides. At that point Blackfoot Farms will divert its well water out of the Curtis Branch, for delivery to the new place of use in the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 24, Township 5 North, Range 45 East, B.M. The Canal Company's transport of said water rights will not establish any right or claim in such flows, nor be allowed to deprive or interfere with the prior right and obligation of the Canal Company to deliver water to its shareholders via the Curtis-Johnson Ditch.

2. **Measuring Devices.** Blackfoot Farms agrees to pay the cost of purchasing and installing three water flow measuring devices for the use and benefit of the Canal Company in measuring and controlling the transport of water, including Blackfoot Farms' well water rights, through the Curtis-Johnson Ditch and the Curtis Branch. One measuring device shall be installed in the Curtis-Johnson Ditch at a point west of Blackfoot Farms well, as near as practicable to said well, but within 200 feet of the well. A second measuring device shall be installed in the Curtis Branch, as near as practicable to and within 200 feet of the point at which the Curtis-Johnson Ditch divides into the Johnson Branch and the Curtis Branch. A third measuring device shall be installed as near as practicable to the head of the lateral ditch adjoining the Curtis Branch and flowing due west from its intersection with the Curtis Branch at a point approximately 400–600 feet south of where the Curtis-Johnson Ditch divides into the Johnson Branch and the Curtis Branch. The exact location, size and design of the measuring devices shall be approved by the Canal Company and shall belong to the Canal Company following installation.

3. **Water Master Services.** The water master of the Canal Company shall have the sole and exclusive authority and responsibility to measure and control the transport of Blackfoot Farms' well water rights through the Canal Company's ditches.

(a) Said water master shall keep such records as he deems sufficient of the days the well is operating and the quantity of water delivered pursuant to this Agreement during the irrigation season.

(b) Blackfoot Farms agrees to compensate the Canal Company Five Thousand Dollars (\$5,000.00) for the first year that the Canal Company transports water pursuant to this Agreement. After the first irrigation season, the parties shall establish by mutual agreement, the amount to be paid by Blackfoot Farms to Canal Company for each additional season during which the Canal Company agrees to transport water pursuant hereto.

(c) The sum of Five Thousand Dollars (\$5,000.00) for the first season's Water Master services shall be paid by Blackfoot Farms to Canal Company upon the execution of this agreement, receipt whereof is hereby acknowledged by Canal Company. Thereafter, the amount agreed to for any subsequent season shall be paid by Blackfoot Farms to Canal Company on or before the first day of May of the season for which such Water Master services will be provided by Canal Company.

4. **Easement and Access.** Blackfoot Farms shall grant to the Canal Company all easements and access necessary for the water master's access, for control, and observation of the well and measuring devices and through with Blackfoot Farms' well water rights are transported and diverted to insure the proper measurement and delivery of water to Blackfoot Farms and the Canal Company shareholders.

5. **Indemnification.** Blackfoot Farms agrees to indemnify and hold the Canal Company harmless from any and all claims arising out of the design, construction and installation of the measuring devices and other facilities by Blackfoot Farms and the transport of Blackfoot Farms' well water rights under this Agreement.

6. **Blackfoot Farms Representative.** Blackfoot Farms agrees to designate one person to represent Blackfoot Farms in all dealings with the Canal Company and to act as a liaison between the parties.

7. **Additional Documents.** The parties will execute such additional deeds, releases and other documents and instruments as may be required to carry out the purpose and intent of the foregoing Agreement.

8. **Cooperation.** The parties will cooperate, communicate and act in good faith with each other as may be reasonable and necessary in exercising their rights and performing their responsibilities pursuant to this Agreement.

9. **Default.** In the event any party fails to perform any of the terms, conditions or provisions of this agreement, and fails to cure such default within thirty (30) days of receipt of written notice of default, the non-defaulting party may elect any one of the following remedies, which are the sole and exclusive remedies available.

- (a) to terminate this Agreement; or
- (b) to obtain specific performance of this Agreement.

10. **Legal Fees.** In the event legal action is undertaken to enforce this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees and costs.

11. **Binding Effect.** All of the terms, conditions and covenants of this Agreement shall be binding upon the parties and shall inure to the benefit of all successors and assigns of the parties hereto.

12. **Assignment of this Agreement.** This Agreement shall be assignable by Blackfoot Farms to the homeowner's association of Huntsman Springs upon completion of that development.

13. **Modification or Revocation.** This Agreement may be modified or revoked in writing upon the mutual consent of all the parties hereto, or their successors in interest.

14. **Dispute Resolution.** Any substantial dispute between the parties shall be resolved in accordance with the following provisions unless the dispute is one which is subject to a requirement in an insurance policy in force between the Canal Company and its insurer that gives such insurance company control over such issues:

- (a) Mediation. The parties shall designate a mediator and appear before the mediator and attempt to mediate a settlement of the dispute.
- (b) Arbitration. In the event the dispute between the parties cannot be settled as a result of mediation as above described, the dispute shall be arbitrated in accordance with the Uniform Arbitration Act, Title 7, Chapter 9, Idaho Code. The parties shall elect a mutually agreeable arbitrator and the dispute shall be submitted to that arbitrator for decision. The

arbitrator shall be authorized to enter a decision to resolve the dispute that is binding on the parties. The arbitrator's decision shall be non-appealable.

- (c) Litigation. Litigation is allowed between the parties only for the purpose of enforcing a settlement agreement entered into between the parties as a result of mediation, or an arbitrator's decision resulting from arbitration.
- (d) Injunctive Relief. Either party may request a Court to issue such temporary or interim relief (including temporary restraining orders and preliminary injunctions) as may be appropriate, either before or after mediation or arbitration is commenced. The temporary or interim relief shall remain in effect pending the outcome of the mediation or arbitration. No such request shall be a waiver of the right to submit any dispute to mediation or arbitration.
- (e) Arbitration and Mediation Costs. The parties shall share equally in all expenses and costs and fees of the mediator and arbitrator. Each party shall be responsible for its own costs, attorney fees and witness fees, if any. However, the arbitrator may award reasonable attorney fees to the prevailing party.
- (f) Choice of Law. This Agreement and the validity, interpretation and performance thereof shall be governed by and construed in accordance with the laws of the State of Idaho.

15. **Notices.** All notices required to be given pursuant to this Agreement shall be served upon the parties by certified mail, return receipt requested, at the following addresses:

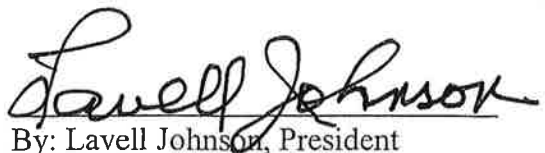
Grand Teton Canal Company
PO Box 1099
Driggs, ID 83422

Blackfoot Farms, LLC
97 North Highway 33
Driggs, Id 83422

IN WITNESS WHEREOF, the parties have executed this Agreement effective on the date recited above.

GRAND TETON CANAL COMPANY

BLACKFOOT FARMS, LLC



By: Lavell Johnson, President

By: Mike Stears, Managing Member



By: John Letham, Secretary

G:\WPDATA\KWF\1040 GRAND TETON CANAL CO\Water Transport Agreement.wpd:cdv

RENDEZVOUS ENGINEERING, P.C.

25 South Gros Ventre Street
 P.O. Box 4858
 JACKSON, WY 83001
 307.733.5252 Fax 307.733.2334

JOB _____
 SHEET NO. _____ OF _____
 CALCULATED BY _____ DATE _____
 CHECKED BY _____ DATE _____
 SCALE _____

TO: Jennifer / Skip Jones - EDWR

208-525-~~7161~~
1177Pages - 11
(including this sheet)

Greetings

I am sending these illustrative maps on behalf of Harvey Walker % Huntsman Springs. The originals are in color, and I can provide these via mail, FedEx, pdf file at your request. Please contact me with questions on this transmittal.

Ted VanHolland

Rendezvous Engineering

office 307 733 5252

cell 307 413 3562

fax 307 733 2334

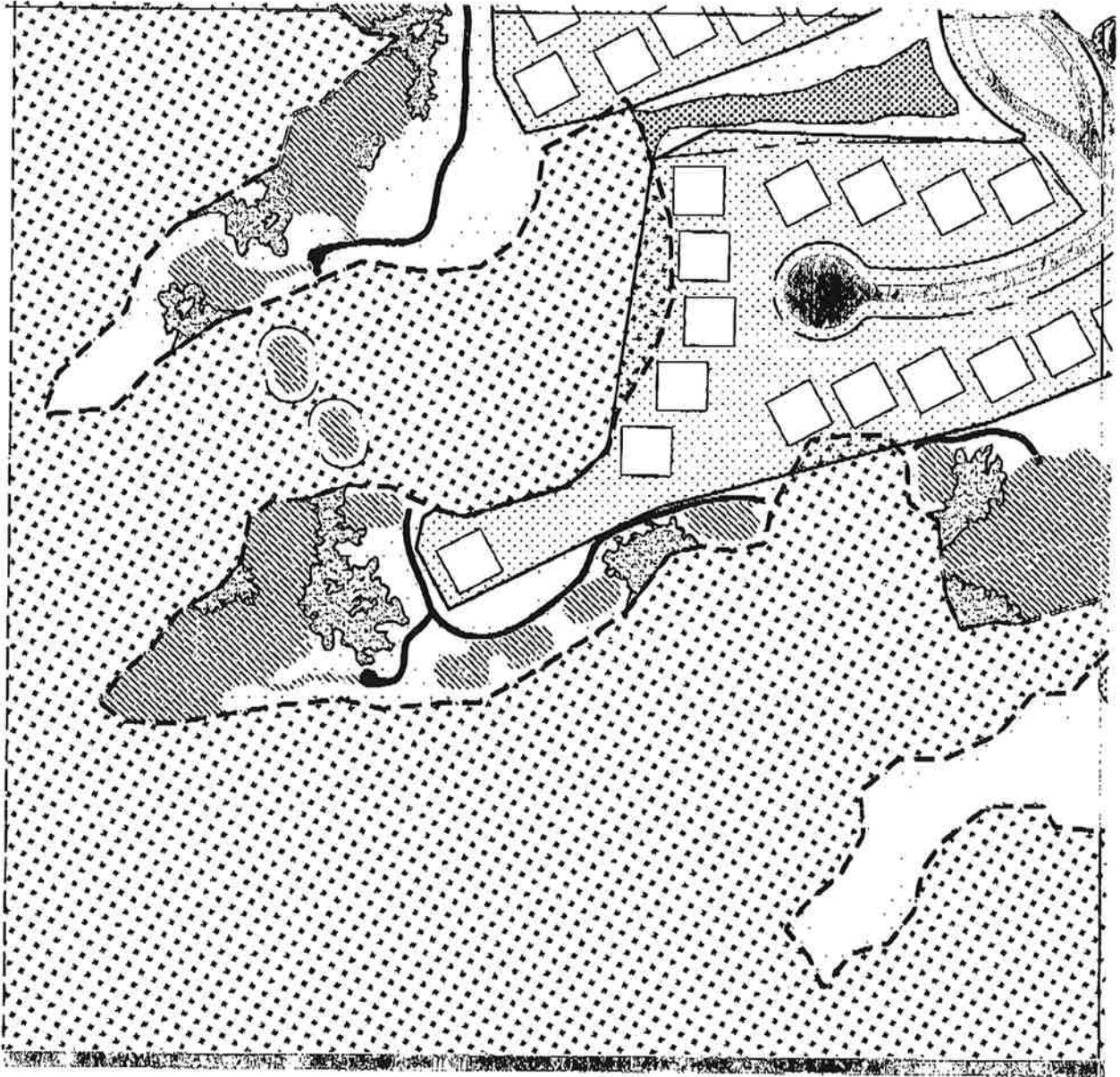
email tvanholland@rdzeng.com



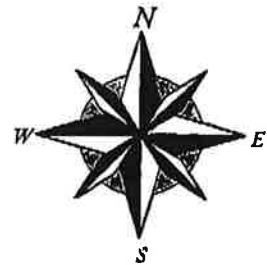
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1" = 200'



- OPEN WATER- PONDS
- IRRIGATED-GOLF COURSE
- IRRIGATED-WETLANDS
- PARTIALLY IRRIGATED- RESIDENTIAL/COMMERCIAL
- NONIRRIGATED- PAVEMENT
- NONIRRIGATED- SAND BUNKERS
- NONIRRIGATED- NATIVE VEGETATION



PROJECT
NUMBER:
06-004

PROJECT TITLE:

HUNTSMAN SPRINGS
TETON CO., IDAHO

DRAWING TITLE:

LAND USE MAP
SE 1/4 SE 1/4 SEC. 27



RENDEZVOUS ENGINEERING, P.C.

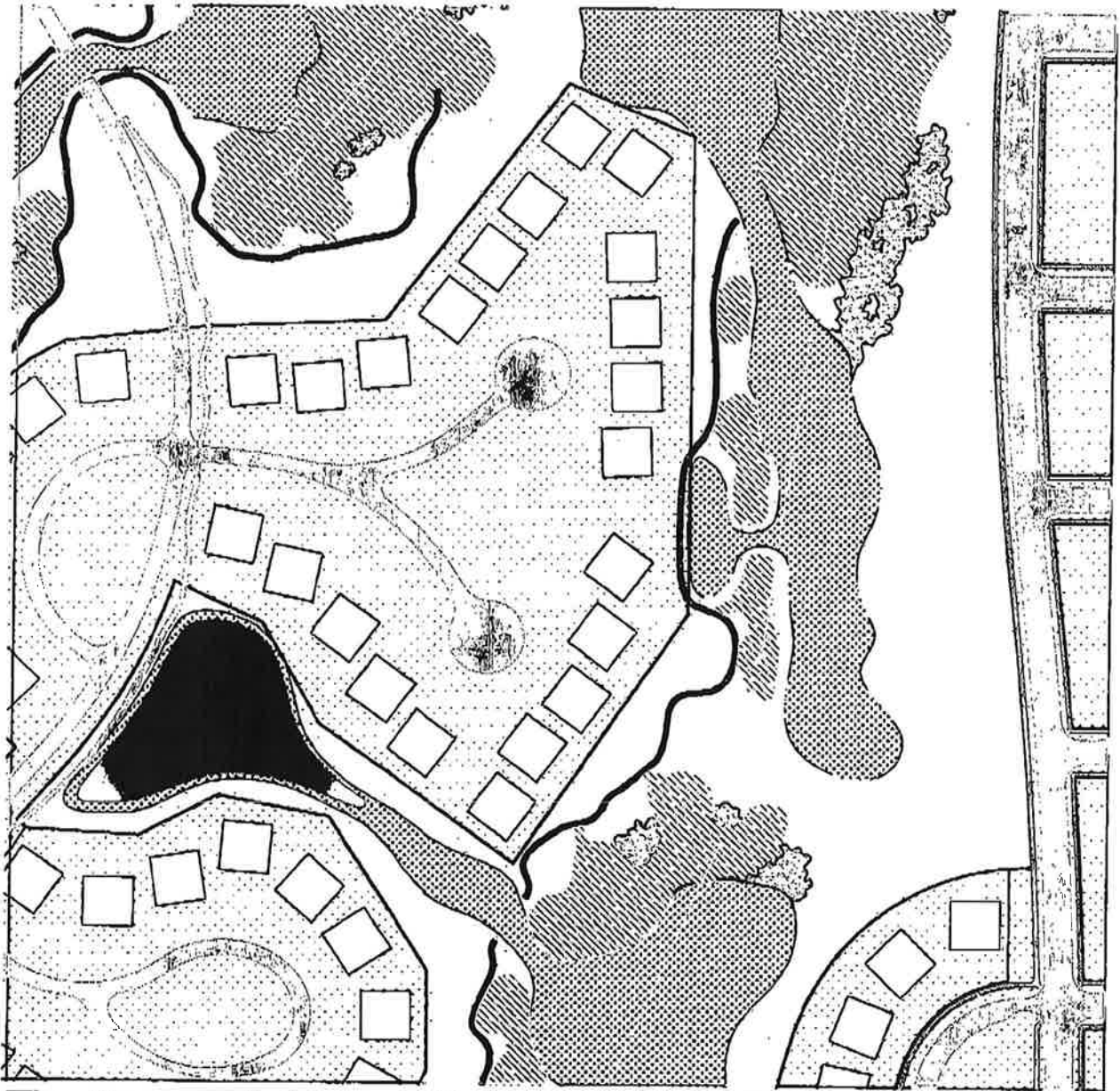
Civil Engineers and Planners in Wyoming and Idaho
25 N. Gray Venture Street P.O. Box 4858 Jackson, WY 83001
Ph (307) 733-5252 Fax (307) 733-2334

Prepared By: TWT
072007
Reviewed By: S. D. D.

DRAWING
NUMBER:
8 OF 8

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1" = 200'

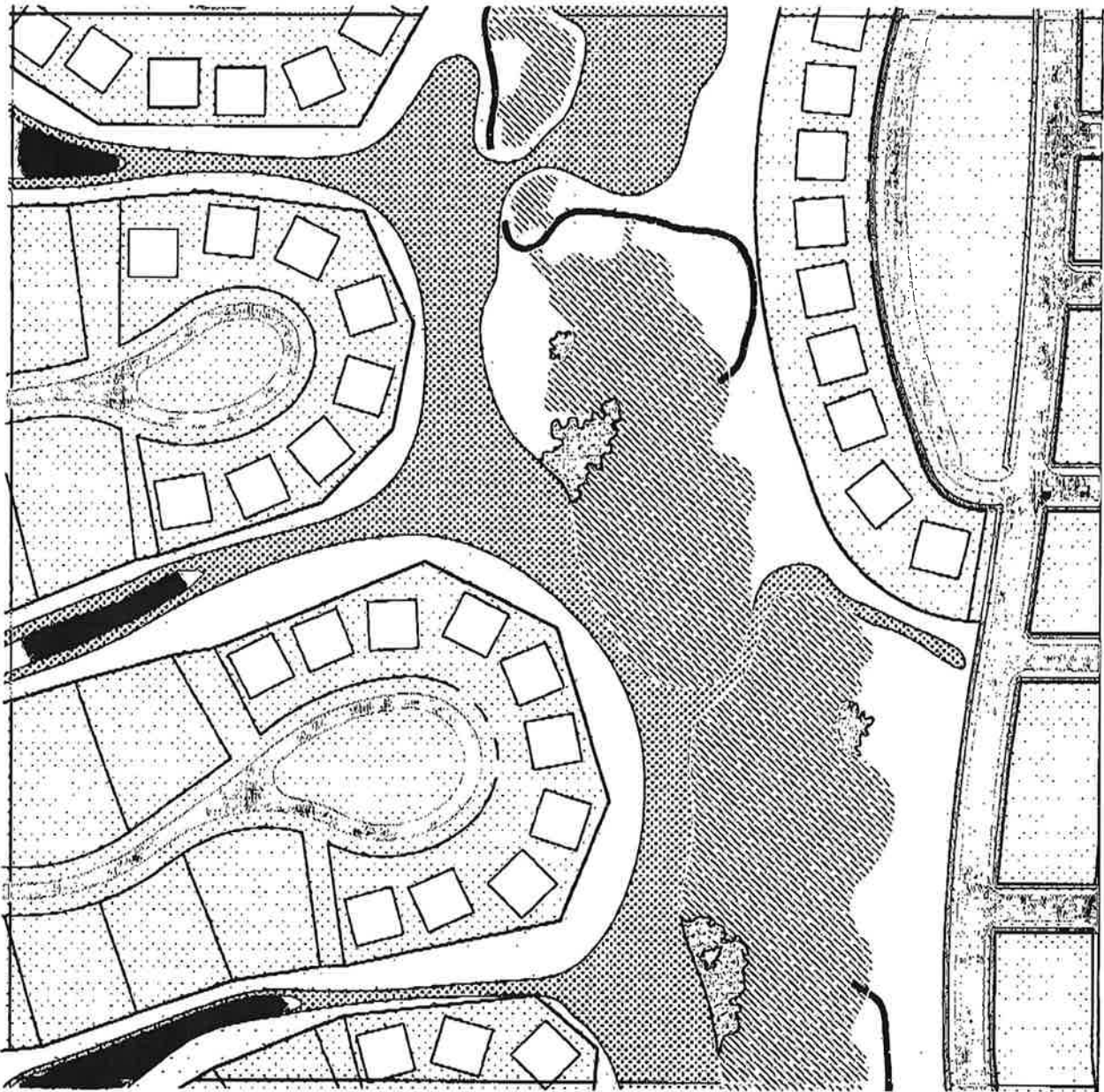


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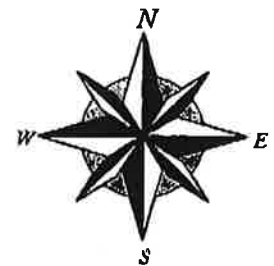
PROJECT NUMBER 06-004	PROJECT TITLE: HUNTSMAN SPRINGS TETON CO., IDAHO	DRAWING TITLE: LAND USE MAP SW 1/4 NW 1/4 SEC 26	 RENDEZVOUS ENGINEERING, P.C. Civil Engineers and Planners in Wyoming and Idaho 25 N. Gros Ventre Street P.O. Box 4850 Jackson, WY 83001 Ph (307) 733-5252 Fax (307) 733-1134	Prepared By: TUM 07/25/07 Revision No. 0: 0:00
DRAWING NUMBER: 1 OF 8				

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1" = 200'



- OPEN WATER- PONDS
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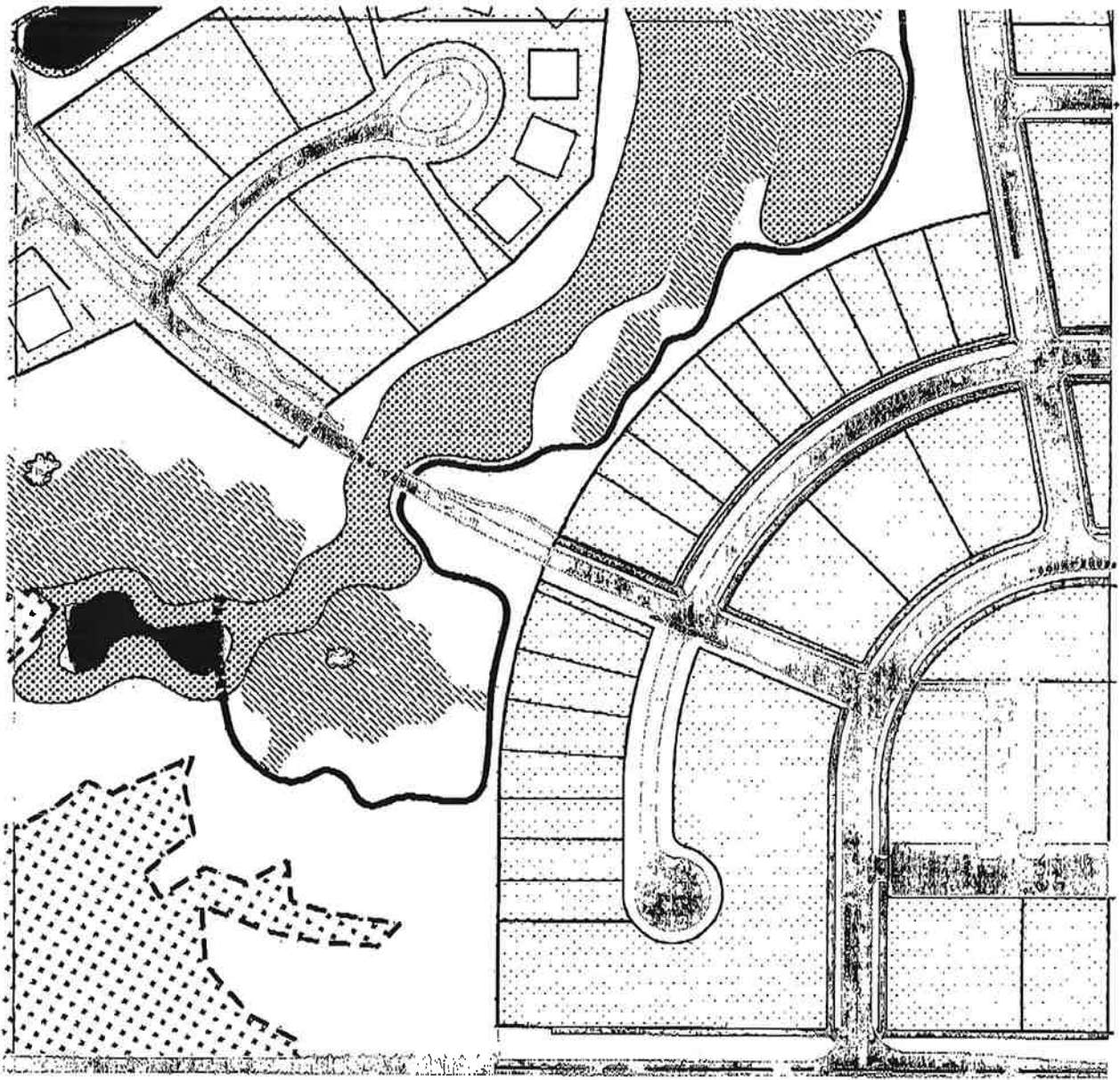


PROJECT NUMBER: 06-004	PROJECT TITLE: HUNTSMAN SPRINGS TETON CO., IDAHO	DRAWING TITLE: LAND USE MAP NW 1/4 SW 1/4 SEC 26	 RENDEZVOUS ENGINEERING, P.C. Civil Engineers and Planners in Wyoming and Idaho 25 S. Gros Ventre Street P.O. Box 4858 Jackson, WY 83001 Ph: (407)-733-5252 Fax: (407)-733-2114	Prepared By: rns 01/2007 Reviewed By: B. D. D. D.
DRAWING NUMBER: 2 OF 8				

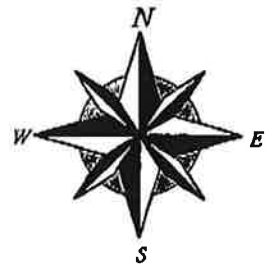
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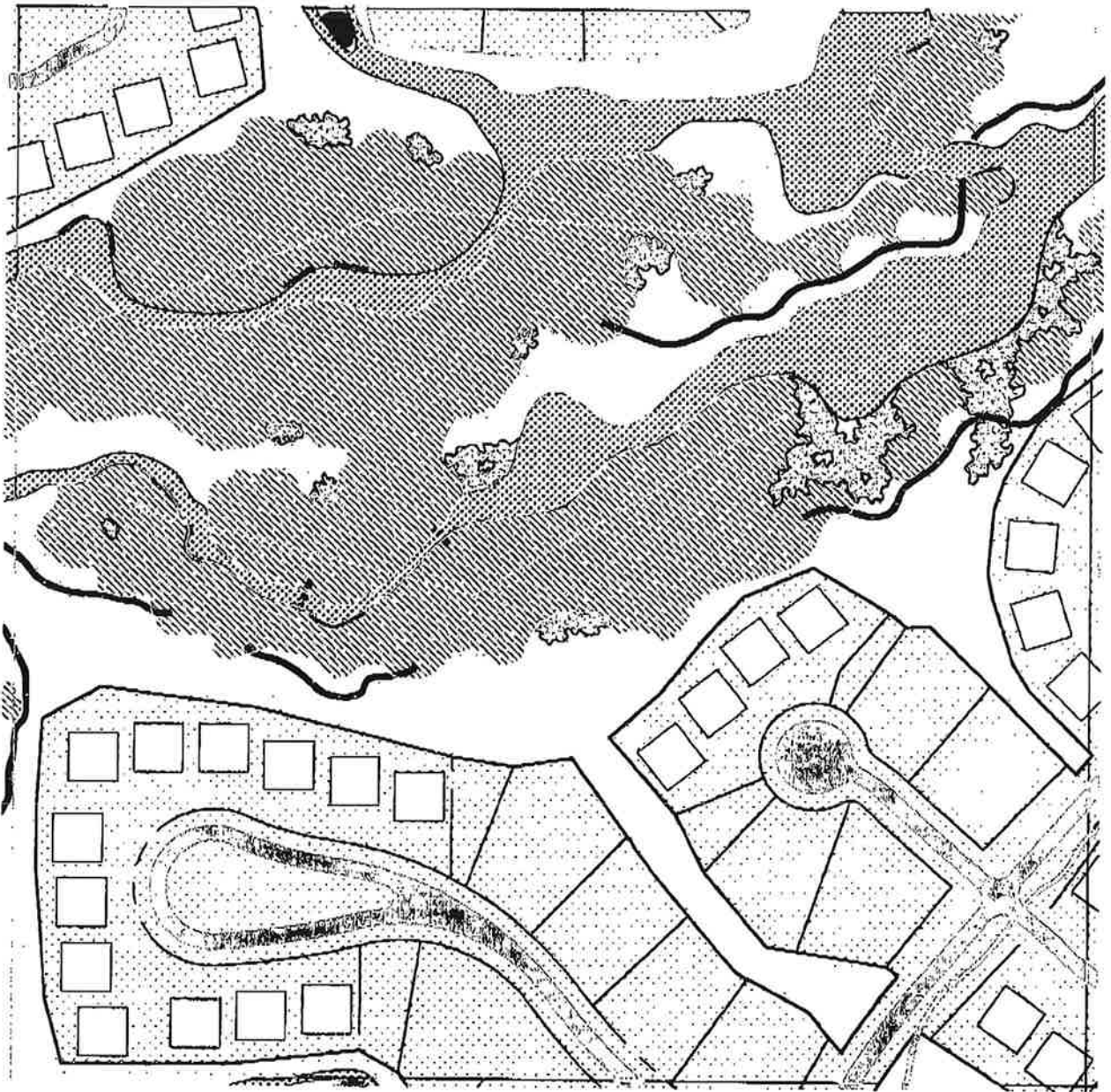


PROJECT NUMBER 06-004	PROJECT TITLE: HUNTSMAN SPRINGS TETON CO., IDAHO	DRAWING TITLE: LAND USE MAP SW 1/4 SW 1/4 SEC 26	 RENDEZVOUS ENGINEERING, P.C. Civil Engineers and Planners in Wyoming and Idaho 25 N. Gros Ventre Street P.O. Box 4898 Jackson, WY 83001 Ph (307) 733-5254 Fax (307) 733-2334	Prepared By: TOL 07/20/07 Reviewed By: M. D. Dyer
DRAWING NUMBER 3 OF 8				

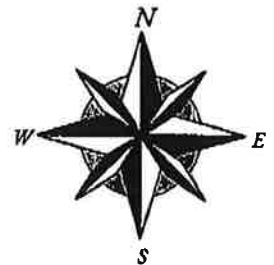
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PROJECT
NUMBER:
06-004

DRAWING
NUMBER:
4 OF 8

PROJECT TITLE:

HUNTSMAN SPRINGS
TETON CO., IDAHO

DRAWING TITLE:

LAND USE MAP
SE 1/4 NE 1/4 SEC. 27



RENDEZVOUS ENGINEERING, P.C.

Civil Engineers and Planners in Wyoming and Idaho
25 S. Gros Ventre Street P.O. Box 4858 Jackson, WY 83001
Ph(307)-733-6151 Fax(307) 733-2334

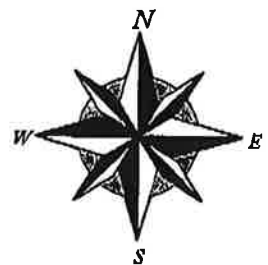
Prepared By: RUM
072007
Revision No. & Date:

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PROJECT
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06-004

PROJECT TITLE:

HUNTSMAN SPRINGS
TETON CO., IDAHO

DRAWING TITLE:

LAND USE MAP
SW 1/4 NE 1/4 SEC. 27



RENDEZVOUS ENGINEERING, P.C.

Civil Engineers and Planners in Wyoming and Idaho
25 N. Gros Ventre Street P.O. Box 4050 Jackson, WY 83001
Ph: (307) 733-5152 Fax: (307) 733-1114

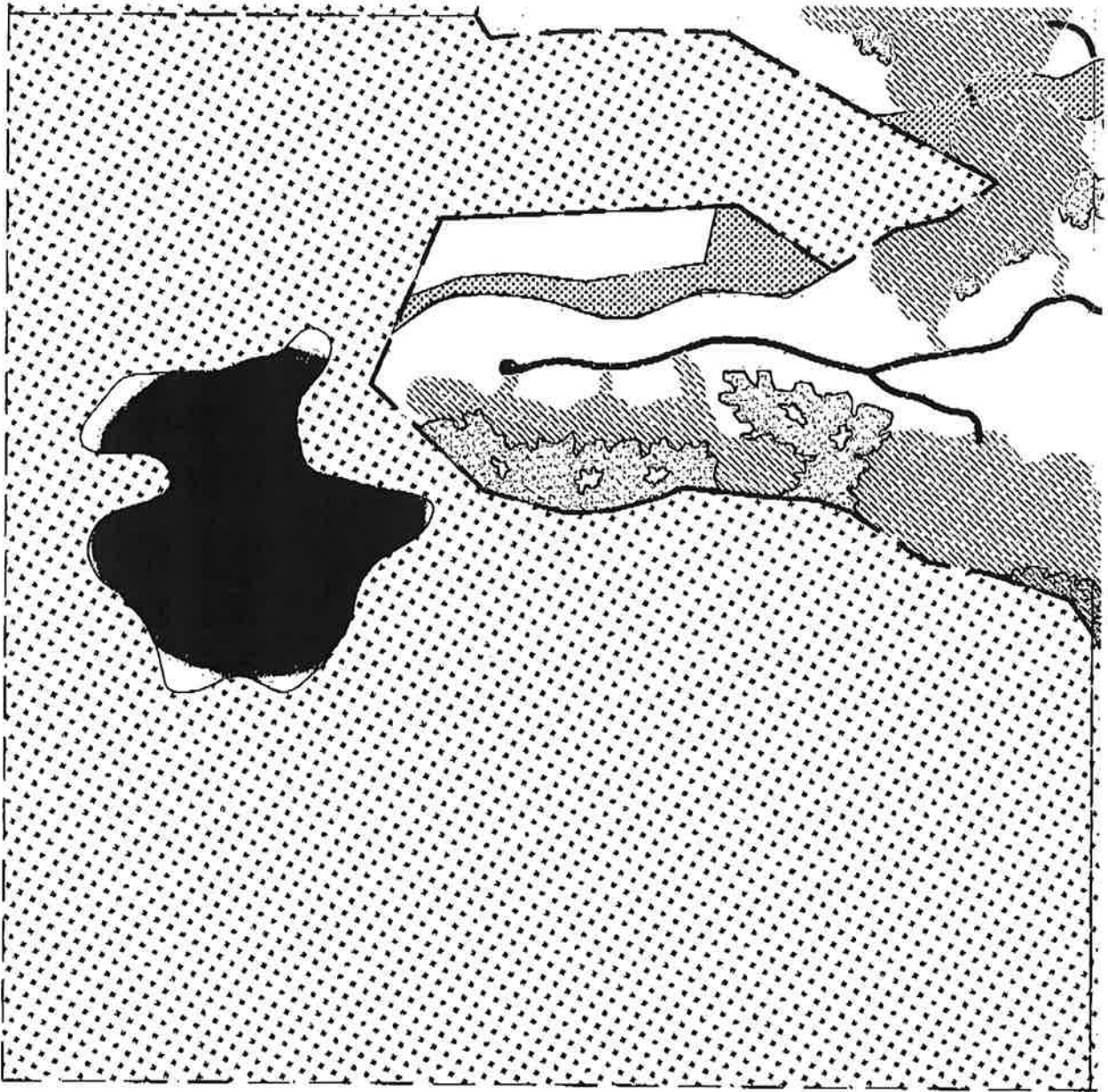
Prepared By: Tye

9/2/07

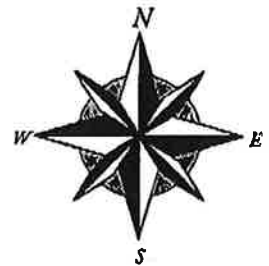
Revision No. & Date:



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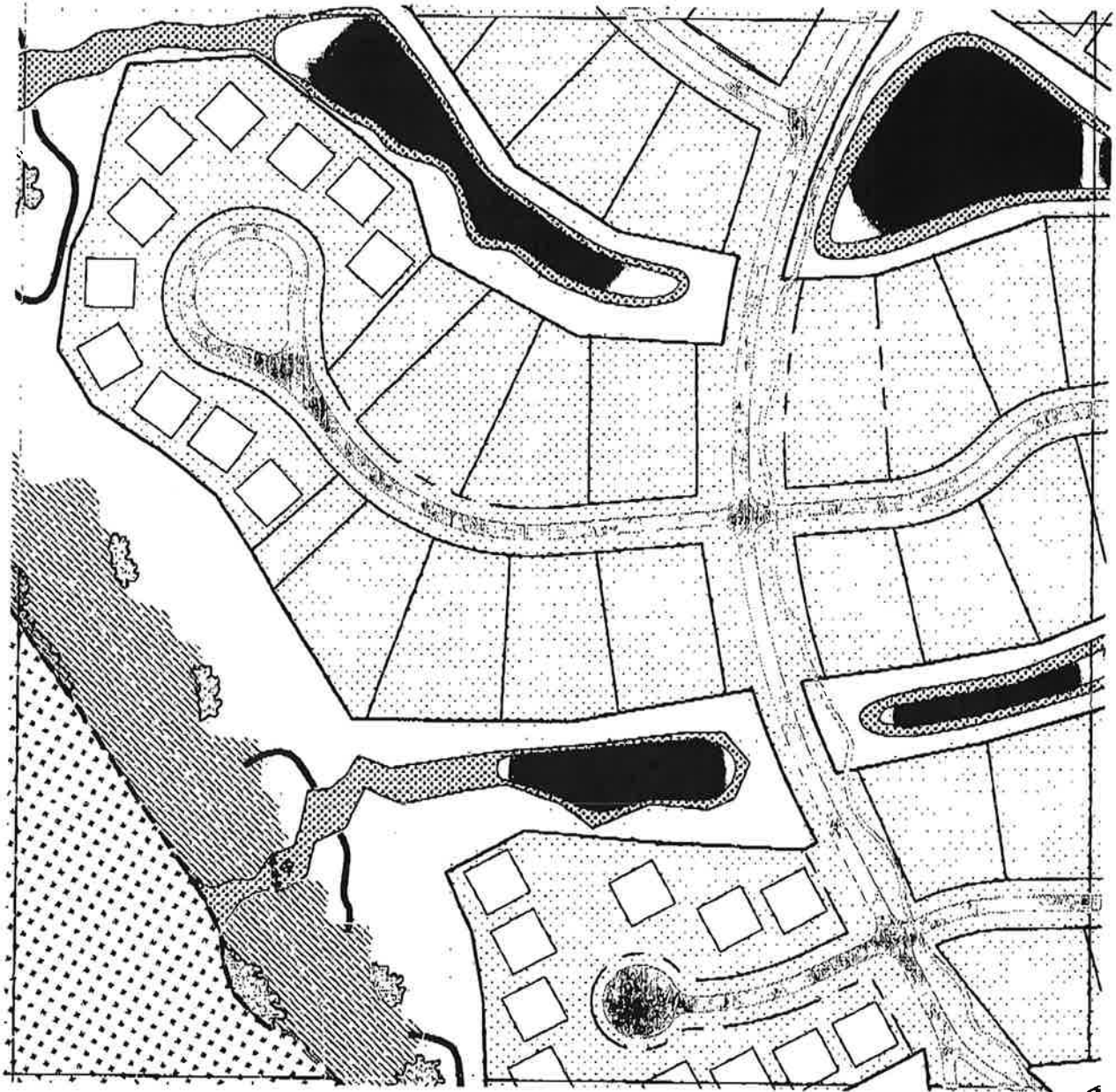


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PROJECT NUMBER: 06-004	PROJECT TITLE: HUNTSMAN SPRINGS TETON CO., IDAHO	DRAWING TITLE: LAND USE MAP NW 1/4 SE 1/4 SEC. 27	 RENDEZVOUS ENGINEERING, P.C. Civil Engineers and Planners in Wyoming and Idaho 25 N. Gros Ventre Street P.O. Box 4958 Jackson, WY 83001 Ph (307) 733-5252 Fax (307) 733-2334	Prepared By: rym 07/25/07 Revision No. & Date:
DRAWING NUMBER: 7 of 8				

0 200 400 600 800
1" = 200'



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PROJECT NUMBER: 06-004	PROJECT TITLE: HUNTSMAN SPRINGS TETON CO., IDAHO	DRAWING TITLE: LAND USE MAP NE 1/4 SE 1/4 SEC. 27	 RENDEZVOUS ENGINEERING, P.C. Civil Engineers and Planners in Wyoming and Idaho 25 S. Gros Ventre Street P.O. Box 4858 Jackson, WY 83001 Ph(307) 733-5252 Fax(307) 711-2334	Prepared By: TJS 01/2007 Revision No. & Date:
DRAWING NUMBER: 6 OF 8				

Huntsman Springs Land Use Table													
			Golf area										
	QTR/QTR area	Cumulative area	Open Water	Cart path	Buildings	Irrigated Vegetation	Non_irrigated vegetation	Created Wetland	Sand	Golf Subtotal	Residential subtotal	Paved streets	Sidewalks, trails
SECTION 26													
SWNW	40.5	40.50	0.88	0.45	0	3.97	9.9	5.18	0.52	20.90	19.6	5.5	0.54
NWSW	40.1	40.10	0.51	0.15	0	5.02	6.87	4.81	0.34	17.70	22.4	2.1	0.43
SWSW	40.05	40.05	0.39	0.33	0	2.68	9.69	3.11	0.03	16.23	21.51	5.47	0.88
SECTION 27													
SENE	40	40.00	0.03	0.32	0	10.67	8.12	4.04	1.01	24.19	15.81	1.27	0.07
SWNE	40.2	40.20	0	0.17	0	3.9	9.197	0.64	0.81	14.72	1.67	0.07	0
NESE	39.74	39.74	2.456	0.11	0	2.42	6.594	1.59	0.25	13.42	23.97	2.29	0.27
NWSE	39.95	39.95	0	0.18	0	3.47	31.732	0.75	1.31	37.44	0	0	0
SESE	39.88	39.88	0	0.23	0	2.65	4.18	0.41	1	8.47	6.97	0.52	0.01

	paved drives,walks, patios	cabins envelop es	custo m lots	Town lots	Commer cial lots	buildings	irrigated veg	non-irrig veg	Wetlands Open water	Delineated wetlands
SECTION 26										
SWNW	1.83	2.78	0	1.42	0	2.57	9.17	0	0	0
NWSW	3.01	2.82	3.56	1.78	0	3.94	12.92	0	0	0
SWSW	1.71	0.24	2.77	4.21	4.99	6.50	6.95	0	0	2.31
SECTION 27										
SENE	2.50	2.14	4.13	0	0	3.14	8.83	0	0	0
SWNE	0.25	0.43	0	0	0	0.34	1.02	0	1.113	22.7
NESE	4.42	1.62	11.3	0	0	5.22	11.77	0	0	2.35
NWSE	0.00	0	0	0	0	0.00	0.00	0	2.508	0
SESE	0.86	1.5	0	0	0	1.19	4.40	0	0	24.44