



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

March 16, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

JANET D ROBNETT
PAINE HAMBLIN LLP
PO BOX E
COEUR D ALENE ID 83816

RE: Notice of Security Interest for Water Right No. 95-7121

Dear Ms. Robnett:

The Department of Water Resources is in receipt of the Notice of Security Interest that you submitted on behalf of Fidelity National Timber Resources.

In order to add a security interest, the water right must be referenced on the deed or the place of use must match the property described on the deed. Water right 95-7121 indicates that the place of use is in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 5, Township 49N, Range 3W and the deed only references property that is located in the W $\frac{1}{2}$ Section 4 and the SE $\frac{1}{4}$ of Section 5, Township 49N, Range 3W and Gov. Lot 5 in Section 4, Township 49N, Range 3W.

Since there is no evidence that you have a security interest, I am returning your notice and have requested that a refund in the amount of \$25 be mailed to you. If you wish to resubmit this request, you may send the enclosed notice of security interest along with the required documentation and fee, and we will be happy to complete the request for you.

If you have any questions regarding this matter, please feel free to call me at 208-287-4952.

Sincerely,

Emalee Rushing
Office Services Supervisor

Enclosures

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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): 95-7121
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
Fidelity National Timber Resources, Inc.
911 Wisconsin Ave., Suite 203
Whitefish, MT 59937
4. Name of Water Right Owner/Claimant(s) Discovery Squaw Bay Land, LLC
5. Expiration Date of Notification Period October 18, 2014
6. Is this a Renewal of Request for Notification? ☐ YES ☒ NO
7. Signature(s) of Security Interest holder(s) [Signature]
(and title if applicable) Executive Vice President

For Office Use Only

Received by <u>[Signature]</u>	Date <u>11/2/10</u>	Fee <u>\$25.00</u>
Receipted by <u>[Signature]</u>	Date <u>11/2/10</u>	Receipt No. <u>N026228</u>
Processed by _____ AJ	Date _____	WR _____ Date _____

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DANIEL Y. ENGLISH 37P I 2286366000
KOOTENAI CO. RECORDER Page 1 of 37
AAA Date 10/18/2010 Time 11:37:26
REC-REQ OF ALLIANCE TITLE
RECORDING FEE: 118.00
2286366000 MY 5

Recorded at the Request of
(when recorded return to):

Janet D. Robnett
PAINE HAMBLIN LLP
Attorneys at Law
701 E. Front Avenue, Suite 101
P.O. Box E
Coeur d'Alene, ID 83816-2530

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**DEED OF TRUST, SECURITY AGREEMENT,
ASSIGNMENT OF RENTS AND FIXTURE FILING STATEMENT**

Date: October 15, 2010, to be effective October 18, 2010

Grantor: Discovery Squaw Bay Land, LLC
a Delaware limited liability company

Grantor's Mailing Address: 14605 North 73rd Street
Scottsdale, Arizona 85260

Trustee: Alliance Title & Escrow Corporation

Trustee's Mailing Address: 1270 Northwood Center Court
Coeur d'Alene, ID 83814

Beneficiary: Fidelity National Timber Resources, Inc.

Beneficiary's Mailing Address: 911 Wisconsin Avenue, Suite 203
Whitefish, MT 59937

THIS DEED OF TRUST, Security Agreement, Assignment of Rents and Fixture Filing Statement ("Deed of Trust") is made as of October 15, 2010, by Discovery Squaw Bay Land, LLC, a Delaware limited liability company authorized to do business in the state of Idaho, ("Grantor" or "Mortgagor") in favor of Alliance Title & Escrow Corporation, a Delaware corporation authorized to do business in the state of Idaho ("Trustee") for the benefit of Fidelity National Timber Resources, Inc., a Delaware corporation authorized to do business in the state of Idaho ("Beneficiary" or "Mortgagee"). The mailing addresses of Grantor, Trustee and Beneficiary are set forth above.

IT IS HEREBY AGREED:

That, subject and subordinate to the Mortgage, Security Agreement and Fixture Filing in favor of American Bank, a Montana banking corporation ("ABM"), recorded June 20, 2006 as Instrument No. 2038504000, records of Kootenai County, Idaho (the "ABM Mortgage"), Grantor

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irrevocably grants, bargains, sells, transfers, conveys and assigns to Trustee in trust, with power of sale, that certain real property located in the County of Kootenai, State of Idaho (the "Real Property") described on Exhibit A attached hereto and by this reference incorporated herein, together with all interest which Grantor now has or may hereafter acquire in and to said Real Property and all interest which Grantor now has or may hereafter acquire in and to:

- (a) All oil, gas and mineral rights, all appurtenances, reversions, remainders, water, water stock and water rights and water right applications, pumps and pumping plants, pipes, flumes and ditches thereunto appertaining, all rights to the use of water as well as all rights in ditches for the irrigation of the Real Property, and all shares of stock evidencing such rights, together with any and all appurtenances to the Real Property, including without limitation, all development rights and credits and/or air rights;
- (b) All easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Grantor in the Real Property, either at law or in equity, now or hereafter acquired;
- (c) All structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Property or adjacent thereto into the waters of Lake Coeur d'Alene (in the case of the docks, ramps and related facilities and improvements) (collectively the "Improvements");
- (d) All machinery, appliances, apparatus, equipment and fixtures now or hereafter located in, upon or under to, or waterward from, the Real Property or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements therefor (the "Fixtures");

Grantor agrees that Fixtures shall include all articles of personal property, furniture and furnishings which are so related to the Real Property such that an interest arises in them under the Real Property laws of the State of Idaho, including, without limiting the generality of the foregoing: all electric wiring, plumbing and heating fixtures, appliances and equipment for heating, lighting, refrigeration, air-conditioning and fire fighting, screen doors, screens, venetian blinds, alarm systems, safety and life support systems, stoves, ovens, dishwashers, carpeting and other floor coverings, and all other equipment now or hereafter installed in or upon said premises by Grantor and used or for use therein or thereon, it being mutually agreed that all of the aforesaid property owned by Grantor and placed on the Real Property shall be deemed to be Fixtures, a part of the Real Property covered by this Deed of Trust to the extent permitted by law; and as to the balance of said property, this Deed of Trust shall be deemed to be a Security Agreement between Grantor and Beneficiary for the purpose of creating a security interest in said property in favor of Beneficiary pursuant to the terms of Paragraph 17 below, all of which property, whether real or personal, shall secure the performance of Grantor's obligations hereunder and under the Promissory Note as hereinafter defined; provided, however, that if Grantor enters into a separate Security Agreement with Beneficiary relating to any of said property, the terms thereof shall govern the rights and remedies of Beneficiary with regard to the property covered thereby; provided, however, that trade fixtures or other personal property of any tenant now or hereafter installed shall

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not be included in this provision and shall not be affected hereby. This Deed of Trust shall be self-operative with respect to such personal property, but Grantor agrees to execute and deliver on demand such security agreements, financing statements and other instruments as Beneficiary may request in order to impose the lien hereof more specifically upon any of such property;

- (e) All articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Property or the Improvements, or any portion thereof, and owned by the Grantor or in which Grantor now has or hereafter acquires an interest (the "Personal Property");
- (f) All of the rents, deposits, royalties, issues and profits (the "Rents and Profits") of the Real Property and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto (the "Leases"), and all right, title and interest of Grantor in and to all Leases of the Real Property or of the Improvements now or hereafter entered into and all right, title and interest of Grantor thereunder, including, without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligation thereunder;
- (g) All building materials and supplies now or hereafter placed on the Real Property or in the Improvements;
- (h) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards;
- (i) To the extent allowable under applicable laws, ordinances and/or regulations, all permits, licenses, approvals, development plans and entitlements, including but not necessarily limited to any planned unit development, subdivision or similar or related approvals or permits given by Kootenai County or other governmental authorities in connection with the existing and/or proposed improvements of any or all of the Real Property; and any Encroachment Permits, Submerged Lands Leases or similar permits or agreements issued by the State of Idaho Department of Lands, the U.S. Army Corps of Engineers or other applicable governmental authority in connection with the marinas and dock facilities located adjacent to or in the vicinity of the Real Property (collectively the "Permits and Approvals"), including but not limited to those more fully described on Exhibit C attached hereto and by this reference incorporated herein.
- (j) All other or greater rights and interests of every nature in the Real Property, the Improvements, the Fixtures and the Personal Property and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Grantor.

The property so conveyed hereunder is hereinafter collectively referred to as the "Property".

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GRANTOR:

Discovery Squaw Bay Land, LLC, a Delaware limited liability company

By: Discovery Coeur d'Alene Investors, LLC
a Delaware limited liability company, its sole Member

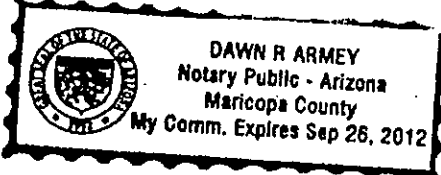
By: Discovery CDL Investors, LLC, a Delaware limited liability company, its Manager

By: [Signature]
Schuyler Joyner, its Authorized Representative

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On this 15TH day of October 2010, before me DAWN R ARMEY personally appeared Schuyler Joyner known or identified to me to be the Authorized Representative of Discovery CDL Investors, LLC, a Delaware limited liability company, the Manager of Discovery Coeur d'Alene Investors, LLC, a Delaware limited liability company, the sole Member of Discovery Squaw Bay Land, LLC, a Delaware limited liability company, the company that executed the above instrument or the person who executed the instrument on behalf of said company and acknowledged to me that such company executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public for MARICOPA COUNTY
residing at SCOTTSDALE, MARICOPA COUNTY
My Commission Expires on 09-26-2012

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EXHIBIT A

Legal Description of Property

A parcel of land, being a portion of the West half of Section 4 and the Southeast Quarter of Section 5, Township 49 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the West Quarter corner of said Section 4, monumented by a 2.5 inch diameter brass cap marked as noted in Corner Perpetuation and Filing Record (CP&F) Instrument No. 1302003, Kootenai County Records, and being located North 17°38'05" West, 2,789.21 feet, from the Southwest corner of said Section 4, monumented by a 1.5 inch diameter iron pipe, as described in CP&F Instrument No. 1318191, Kootenai County Records; thence

From said point of commencement along the West line of the Southwest Quarter of said Section 4, South 17°38'05" East, 360.02 feet, to a 5/8 inch rebar with a plastic cap marked "ATS P.L.S. #8962", similar monuments hereinafter referred to as being an "ATS Monument", being the TRUE POINT OF BEGINNING for this description;

South 22°33'03" West, 40.00 feet; thence

South 28°40'02" East, 101.34 feet; thence

South 63°43'51" East, 101.34 feet; thence

South 85°00'00" East, 151.31 feet; thence

North 70°00'00" East, 80.00 feet; thence

South 51°49'43" East, 100.00 feet; thence

South 30°54'55" West, 150.00 feet, to a point of intersection with the Northerly and Easterly line of the Right-of-Way for Highway No. 97, said point being a point of non-tangent curvature, and being monumented by an "ATS Monument"; thence

Along said Northerly and Easterly line of the Right-of-Way for Highway No. 97 as follows:

244.60 feet along the arc of a 255.00 foot radius curve concave to the Southwest having a central angle of 54°57'30" and along chord bearing North 50°37'18" West, 235.33 feet, to a point of tangency monumented by an "ATS Monument":

North 78°06'03" West, 59.43 feet, to a point of tangent curvature monumented by an "ATS Monument"

280.84 feet along the arc of a 185.00 foot radius curve concave to the Northeast having a central angle of 86°58'36" and a long chord bearing North 34°36'45" West, 254.64 feet, to a point of tangency monumented by an "ATS Monument":

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North 08°52'33" East, 54.27 feet, to a point of intersection with said West line of the Southwest Quarter of said Section 4 monumented by an "ATS Monument"; thence

Leaving said Right-of-Way, along said West line of the Southwest Quarter of said Section 4, South 17°38'05" East, 81.55 feet, to said TRUE POINT OF BEGINNING

AND

A PARCEL OF LAND, being a portion of the West half of Section 4 and the Southeast Quarter of Section 5, Township 49 North, Range 3 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the West Quarter corner of said Section 4, monumented by a 2.5 inch diameter brass cap marked as noted in Corner Perpetuation and Filing Record (CP&F) Instrument No. 1302003, Kootenai County Records, and being located North 17°38'05" West, 2,789.21 feet, from the Southwest corner of said Section 4, monumented by a 1.5 inch diameter iron pipe as described in CP&F Instrument No. 1318191, Kootenai County Records; thence

From said point of commencement, along the West line of the Southwest Quarter of said Section 4, South 17°38'05" East, 360.02 feet, to a 5/8 inch rebar with a plastic cap marked "ATS P.L.S. #8962", similar monuments hereinafter referred to as being an "ATS Monument", being the TRUE POINT OF BEGINNING for this description; thence

From said TRUE POINT OF BEGINNING, North 22°41'12" East, 128.39 feet, to a half inch rebar with a cap marked "Pfahl PLS 4458", similar monuments hereinafter referred to as being a "Pfahl Monument"; thence

North 22°27'46" East, 198.46 feet, to a "Pfahl Monument"; thence

North 08°32'42" East, 104.86 feet, to a "Pfahl Monument"; thence

Continuing North 08°32'42" East, 25.00 feet, to a point of intersection with the shoreline of Lake Coeur d'Alene; thence

Along the shoreline of Lake Coeur d'Alene, the location of which is approximated by the following meander line:

South 57°20'51" East, 26.84 feet;

South 48°07'27" East, 42.44 feet;

South 13°40'43" East, 39.65 feet;

South 09°43'21" West, 43.06 feet;

South 27°59'41" East, 49.23 feet;

South 10°32'33" East, 31.24 feet;

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South 02°52'00" East, 26.38 feet;
South 12°43'04" East, 37.19 feet;
South 28°53'34" East, 52.09 feet;
South 49°45'03" East, 38.93 feet;
South 70°25'29" East, 41.96 feet;
South 88°04'20" East, 133.51 feet;
South 83°27'14" East, 30.25 feet;
South 67°36'41" East, 25.04 feet;
South 14°30'21" East, 30.24 feet;
South 44°28'59" East, 4.42 feet; thence

Leaving said shoreline, South 14°10'29" West, 157.15 feet, to an "ATS Monument"; thence
South 32°47'55" West, 88.95 feet, to an "ATS Monument"; thence
South 30°54'55" West, 30.49 feet; thence
North 51°49'43" West, 100.00 feet; thence
South 70°00'00" West, 80.00 feet; thence
North 85°00'00" West, 151.31 feet; thence
North 63°43'51" West, 101.34 feet; thence
North 28°40'02" West, 101.34 feet; thence
North 22°33'03" East, 40.00 feet, to the TRUE POINT OF BEGINNING

AND

That portion of Government Lot 5 in Section 4, Township 49 North, Range 3 West, Boise Meridian,
lying west of State Highway 95A.

Excepting therefrom all mineral rights.

EXHIBIT C

Personal Property Description, Licenses, Permits and Approvals

- A. All fixtures and articles of property now or hereafter attached to, or used or adapted for use in the operation of, the real property located in Kootenai County, Idaho, and more particularly described as Exhibit A (the "Property") (whether such items are leased, owned absolutely or subject to any title retaining or security instrument, or otherwise used or possessed, but excluding those items owned by tenants in accordance with their leases), including, without limitation, all heating, cooling, air-conditioning, ventilating, refrigerating, plumbing, generating, power, lighting, laundry, maintenance, incinerating, lifting, cleaning, fire prevention and extinguishing, security and access control, cooking, gas, electric, and communication fixtures, equipment, and apparatus, all engines, motors, conduits, pipes, pumps, tanks, ducts, compressors, boilers, water heaters and furnaces, all ranges, stoves, disposers, refrigerators, and other appliances, all escalators and elevators, all cabinets, partitions, mantels, built-in mirrors, window shades, blinds, screens, awnings, storm doors, windows and sash, all carpeting, underpadding and draperies, all furnishings of public spaces, halls and lobbies and all shrubbery and plants.
- B. All present and future contracts and policies of insurance which insure the Property or any building, structures, or improvements thereon, or any such fixtures or personal property, against casualties and theft, and all proceeds and rights thereto which may be or become payable by virtue of any such insurance contracts or policies.
- C. All the rents, revenues, issues, profits and income of the Property, and all right, title, and interest of Grantor in and to all present and future leases and other agreements for the occupancy or use of all or any part of the Property, and all right, title and, interest of Grantor thereunder, including, without limitation, all cash or security deposits, advance rentals, and deposits or payments of similar nature, together with all guaranties of tenants' or occupants' performance thereunder.
- D. All general intangibles relating to the development or use of the Property, including, without limitation, all permits, licenses, and franchises, all names under or by which the Property may at any time be operated or known, and all rights to carry on business under any such names or any variant thereof, and all trademarks, trade names, logos, and good will in any way relating to the Property.
- E. All water stock relating to the Property, all shares of stock or other evidence of ownership of any part of the Property that is owned by Grantor in common with others, and all documents or membership in any owners' or members' association or similar group having responsibility for managing or operating any part of the Property.
- F. All permits, licenses, approvals, development plans and entitlements, including but not necessarily limited to any planned unit development, subdivision or similar or related approvals or permits given by Kootenai County or other governmental authorities in connection with the existing and/or proposed improvements of any or all of the Real Property; and any Encroachment Permits, Submerged Lands Leases or similar permits or agreements issued by the State of Idaho Department of Lands, the U.S. Army Corps of

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Engineers or other applicable governmental authority in connection with the marinas and dock facilities located adjacent to or in the vicinity of the Real Property, consisting of primarily but not limited to:

1. Encroachment Permit # ERL-95-S-1227B, recorded July 3, 2008, Instrument #2041053000; Submerged Lands Lease No. B-2065.
2. State of Idaho Liquor License No. 6295.0, together with any county or other licenses or permits associated therewith.

G. All products and proceeds of all of the foregoing.