

Form 1-222
12-92

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT**

PART 1

1. Name of Applicant BC Properties, LLC Phone (208)705-0859Mailing Address P.O. Box 28, Driggs, ID 83422c/o Rocky Mountain Environmental Associates, Inc.482 Constitution, Ste 303(208) 524-2353Idaho Falls, ID 83402Fax (208) 524-1795**A. PURPOSE OF TRANSFER**1. ☒ Change Point of Diversion ☐ Add diversion point(s) ☒ Change Place of use☒ Change Nature of Use ☒ Change Period of Use ☐ Other2. Describe the reason for the proposed changes: Applicant proposes to transfer groundwater to D Diamond Ranch to mitigate pond evaporation and to irrigate 2.2 acres of landscaping.**B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE**

1. Right Number Priority Amount Nature of Use Period of Use

22-13818	01/08/1991	0.04 cfs	Diversion to Storage	1/01 to 12/31
		4.4 AF	Fire Protection Storage	1/01 to 12/31
		4.4 AF	Aesthetic Storage	1/01 to 12/31
		4.4 AF	Wildlife Storage	1/01 to 12/31
		0.04 cfs	Irrigation	4/15 to 10/15

2. Total amount of water being transferred 0.08 cubic feet per second and/or 12.1* acre-feet per annum.3. Source of water Groundwater tributary to NA

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
	NW	NE	NE	4	05N	45E	TETON	

5. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5N	45E	4	1.5																1.5
			FJW	FJW															
6N	45E	33																0.7	0.7

Total Acres 2.2

*Volume calculated using 2 ac @ 2.19 AF/ac (4.4 AF) and 2.2 ac @ 3.5 AF/ac (7.7 AF)

PART 1

8. General Information:

- a. Description of diversion system: Well to pump to (1) pipeline for irrigation system and (2) ponds
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? ☐ Yes ☒ No If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: 4.2 acres of the original irrigated ground will be made dry.
- d. Remarks: A companion transfer will change the nature of use of a portion of the existing surface water rights (22-600 and 22-601) on the same place of use to provide water for the fill of the ponds. The ground water addressed in this transfer is strictly for the maintenance of the ponds levels and for irrigation of 2.2 acres of roadside tree lines. It has been determined that this is a primary ground water right. See attached mitigation plan. Upon approval of the transfer, D Diamond Ranch Homeowners Association, Inc will complete their purchase of the water right and have the ownership changed to their name.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Right No. _____

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

Witness my hand this _____ day of _____, 20__

for the Director

APPLICATION FOR TRANSFER OF WATER RIGHT**PART 2**

WATER RIGHT NO. 22-13818

Owner Type Name and Address

Current Owner BC PROPERTIES LLC
PO BOX 28
DRIGGS, ID 83422
(208)705-0859

Priority Date: 01/08/1991

Basis: License

Status: Active

Source Tributary

GROUND WATER

Beneficial Use From To Diversion Rate Volume

IRRIGATION 04/15 10/15 0.61 CFS

Total Diversion 0.61 CFS

Location of Point(s) of Diversion:

GROUND WATER SWNE Sec. 05 Township 05N Range 45E TETON County

Place of Use Legal Description: IRRIGATION TETON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
05N	45E	5		NESW	32.7									

Total Acres: 32.7

Conditions of Approval:

The right holder shall use the full allotment of appurtenant surface water rights, to the extent they are available, in conjunction with groundwater diverted pursuant to this right. This right to divert groundwater shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use without the approval of the Department. This right when combined with all other rights shall provide no more than .02 cfs per acre nor exceed a combined annual diversion volume of 114.4 af for the lands above.

048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.

049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? NO If yes, describe

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

1. Amount 0.08 cfs for Irrigation purposed from 4/15 to 10/15
2. Points of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		SW	NE	5	5N	45E	TETON	

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5N	45E	5									4.2								4.2

Total Acres 4.2

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT

1. Amount 0.53 cfs for irrigation purposed from 4/15 to 10/15
2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local Name for Diversion
		SW	NE	5	5N	45E	TETON	

3. Lands irrigated or place of use:

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
5N	45E	5									28.5								28.5

Total Acres 28.5

PART 3

B. CHANGES IN NATURE OF USE

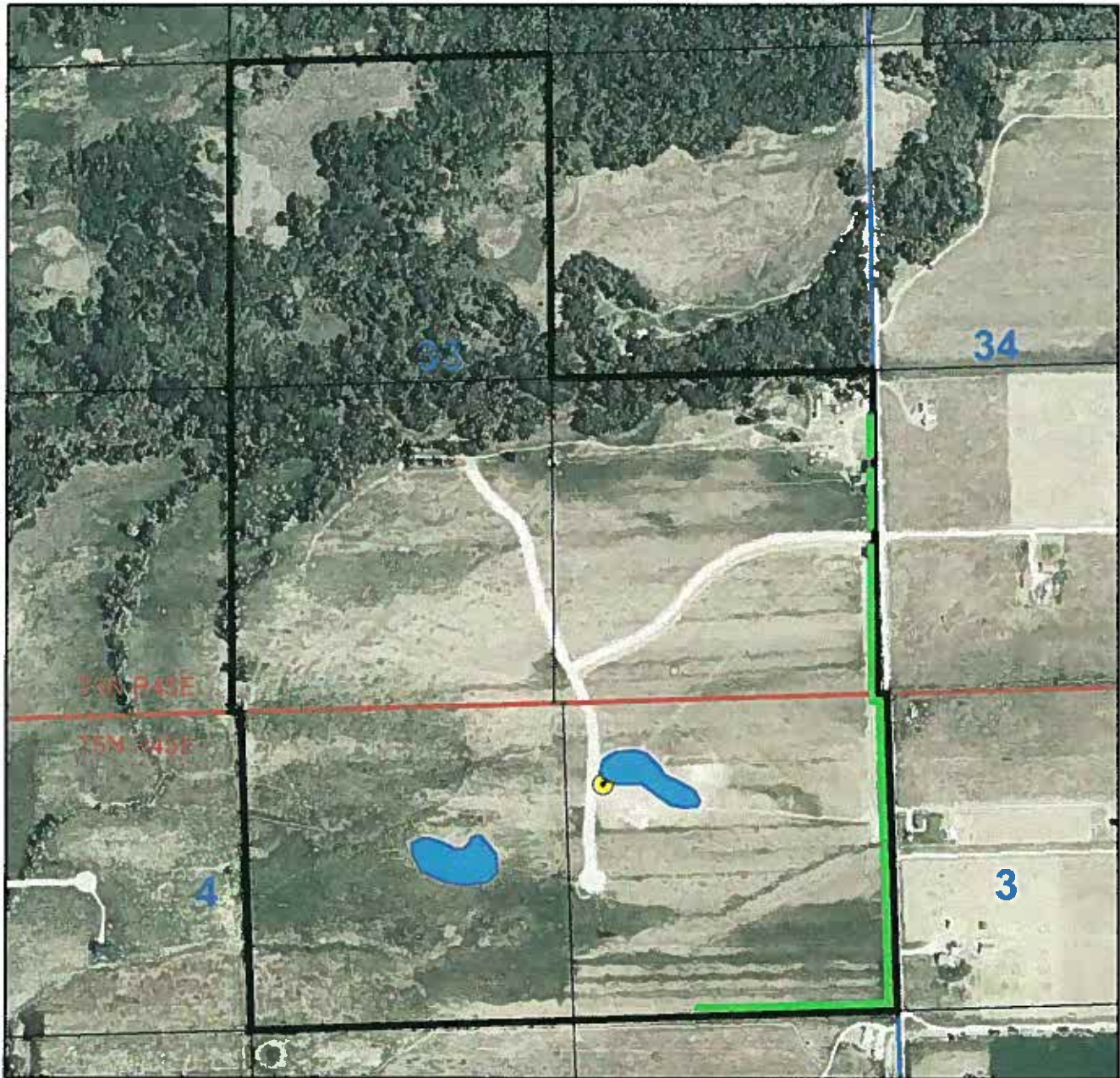
1. New Nature of Use	Amount (cfs/af-ac)	Hours/days/year	Period of use
<u>Diversion to Storage</u>	<u>0.04</u> cfs	<u>24 h/365 d/yr</u>	<u>1/01 to 12/31</u>
<u>Fire Protection Storage</u>	<u>4.4</u> ac-ft	<u>24 h/365 d/yr</u>	<u>1/01 to 12/31</u>
<u>Aesthetic Storage</u>	<u>4.4</u> ac-ft	<u>24 h/365 d/yr</u>	<u>1/01 to 12/31</u>
<u>Wildlife Storage</u>	<u>4.4</u> ac-ft	<u>24 h/365 d/yr</u>	<u>1/01 to 12/31</u>

2. Quantity and quality of return flows and location of discharge: Well will only pump enough water to keep ponds full throughout the year and irrigate landscaping along the property boundary on the east and south sides during the irrigation season. Quantity of water needed outside of the irrigation season will be minimal, since evaporative losses will be minimal. After trees and grasses are well established, a dripline will be installed and water consumption for the irrigated ground will be reduced.

3. Describe effects on other water uses resulting from the proposed change: No effects on other water uses.

Application for Transfer of Water Right 22-13818 D Diamond Ranch Subdivision

74685



2006 NAIP Photography

Legend

- | | |
|---|--|
|  New POD |  Township and Range |
|  Ponds |  Section |
|  New Irrigated POU |  QQ |
|  Property Boundary | |

0 250 500 1,000 Feet



Rocky Mountain
ENVIRONMENTAL
ASSOCIATES, INC.

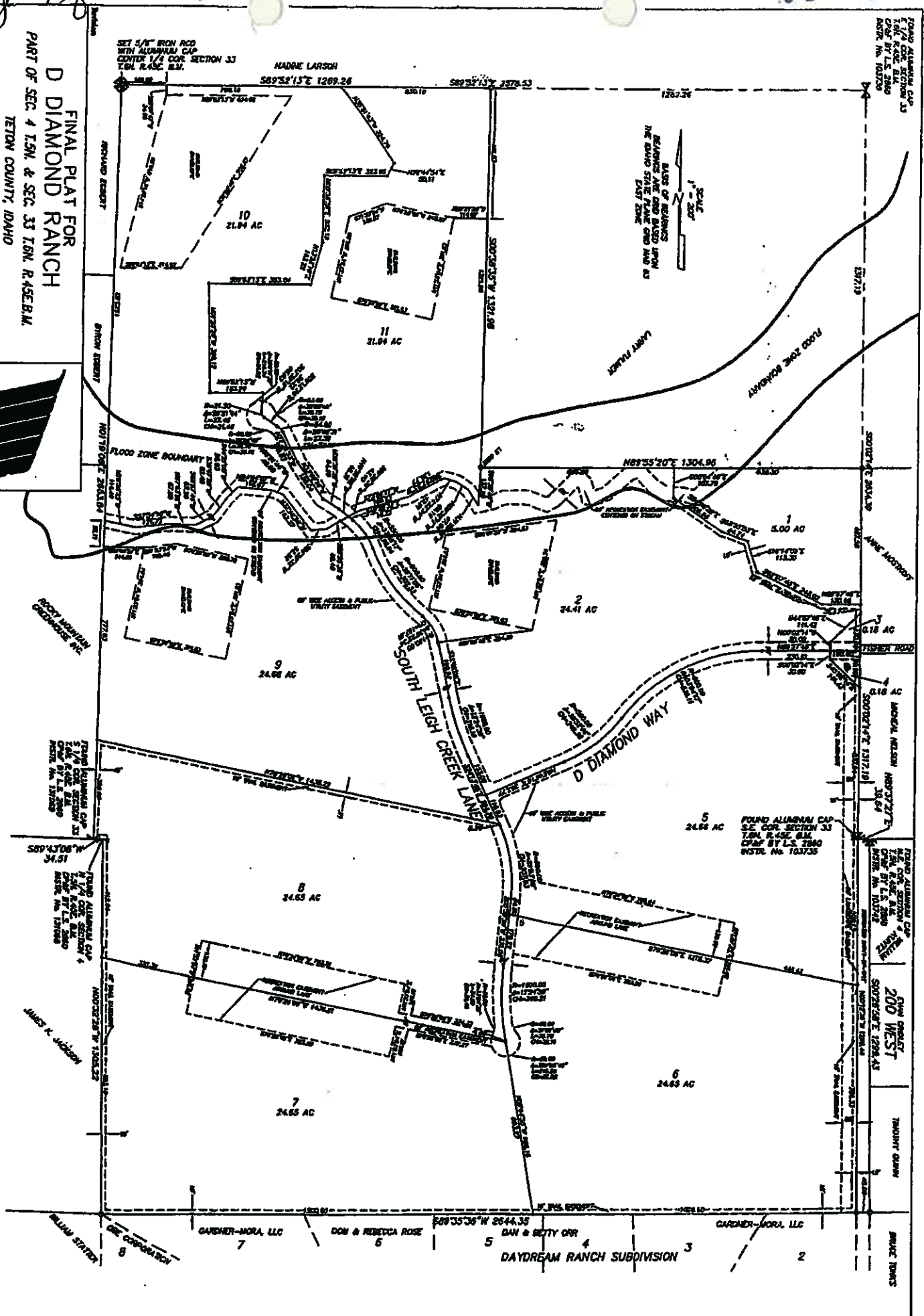
74685

FINAL PLAT FOR
D DIAMOND RANCH
PART OF SEC. 4 T.5N. & SEC. 33 T.6N. R.45E.B.M.
JEFION COUNTY, IDAHO

Scale 1" = 200'
DATE: 07/20/2005
BY: [Signature]
CHECKED: [Signature]
DATE: 07/20/2005
BY: [Signature]
DATE: 07/20/2005
BY: [Signature]



Mountain River
Engineering



1020 Lincoln Road
Idaho Falls, Idaho 83401
524-6175

I hereby 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 in this application is true to the best of my knowledge.

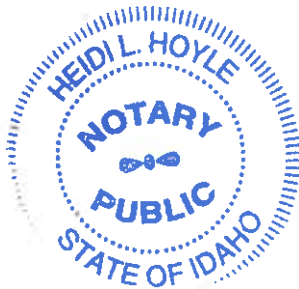
I understand that any willful misrepresentations made in this application may result in voiding its approval.

Ken Chambers
(Signature of Applicant)

BC Properties-Member
(Office or Position of Authority)

Ken B. Chambers
(Printed Name)

Subscribed and sworn to before me this 11th day of March, 2008.



Heidi L. Hoyle
Notary Public

My Commission expires: 3-9-2012

Kosides, Jetonia, Idaho

FOR DEPARTMENT USE ONLY

Transfer contains 8 pages and _____ attachments

Received by _____ Date _____ Protest filed by _____

Prelim check by _____ Fee 100

Receipted by _____ Date E033893 3/27/08

Published in Teton Valley News Copies of protest forwarded by _____

Pub. Dates Aug 21 & 28, 08 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd _____ By _____

Copy of transfer sent to lien holder _____

IDAHO SECRETARY OF STATE

Viewing Business Entity

Ben Ysursa, Secretary of State

BC PROPERTIES LLCPO BOX 28
DRIGGS, ID 83422

Type of Business:	LIMITED LIABILITY COMPANY
Status:	EXISTING, ANREPT SENT 03 Dec 2007
State of Origin:	IDAHO
Date of Origination/Authorization:	26 Feb 2007
Current Registered Agent:	KEN CHAMBERS 241 N 350 W DRIGGS, ID 83422
File Number:	W59728
Date of Last Annual Report:	27 Dec 2007

Original Filing:

Filed 26 Feb 2007 ARTICLES OF ORGANIZATION

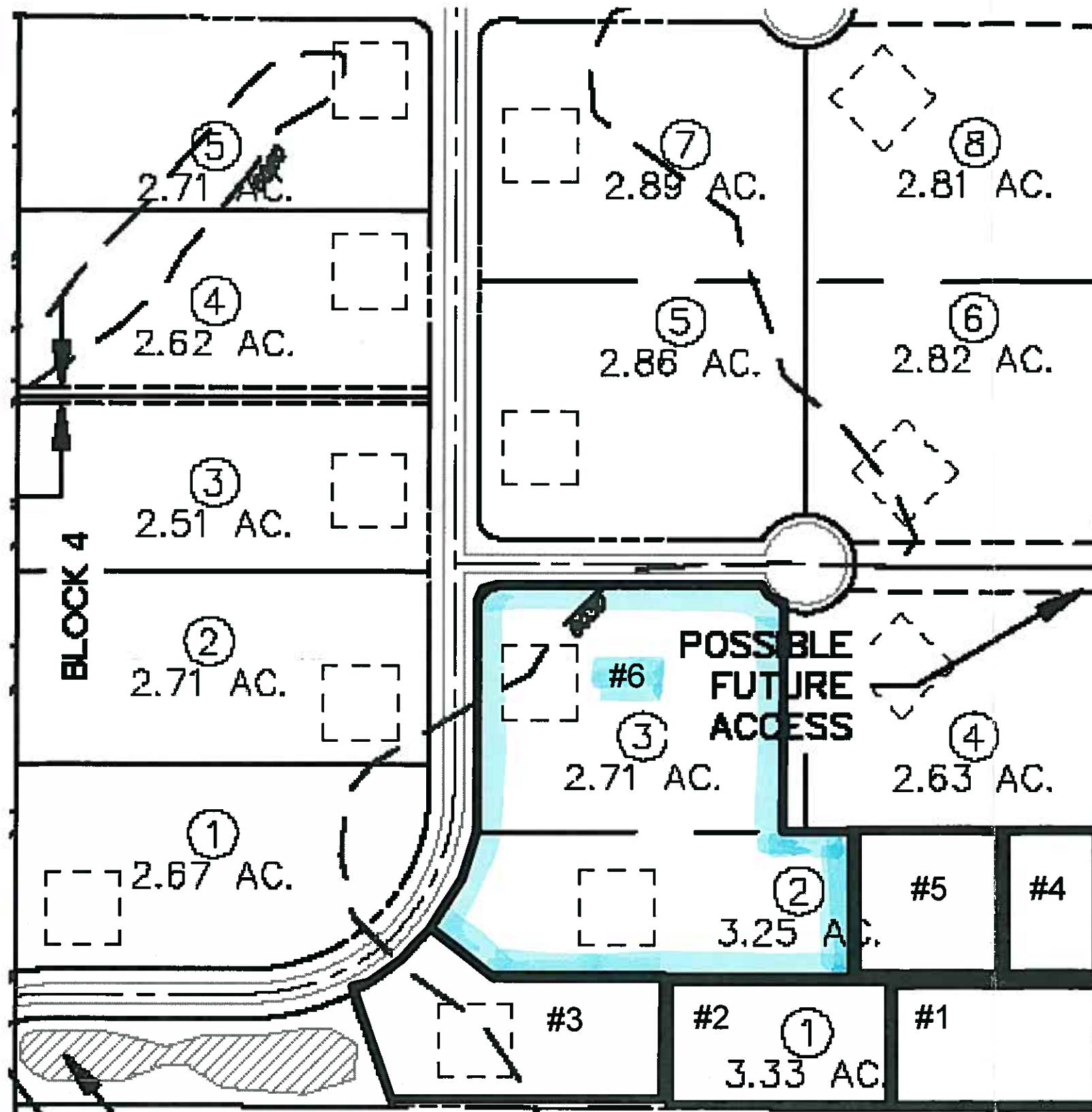
Amendments:**Annual Reports:**

Report for year 2008 ANNUAL REPORT

Map Indicating Lands of Silver Dollar Ranches to be dried up upon approval of Transfers

BC Properties LLC

T5N, R45E, Sec 5, NESW



Buyers of the Water Rights from the Indicated Lands

Lot 1

#1 – 1.0 ac – Surprise Valley Holdings LLC

#2 – 1.0 ac – W. Michael Baker

#3 – 1.3 ac – BC Properties LLC for Leigh Creek LLC

Lot 2

#4 – 0.5 ac – Eureka Feeling, Inc

#5 – 1.0 ac – Ludwig M. Long

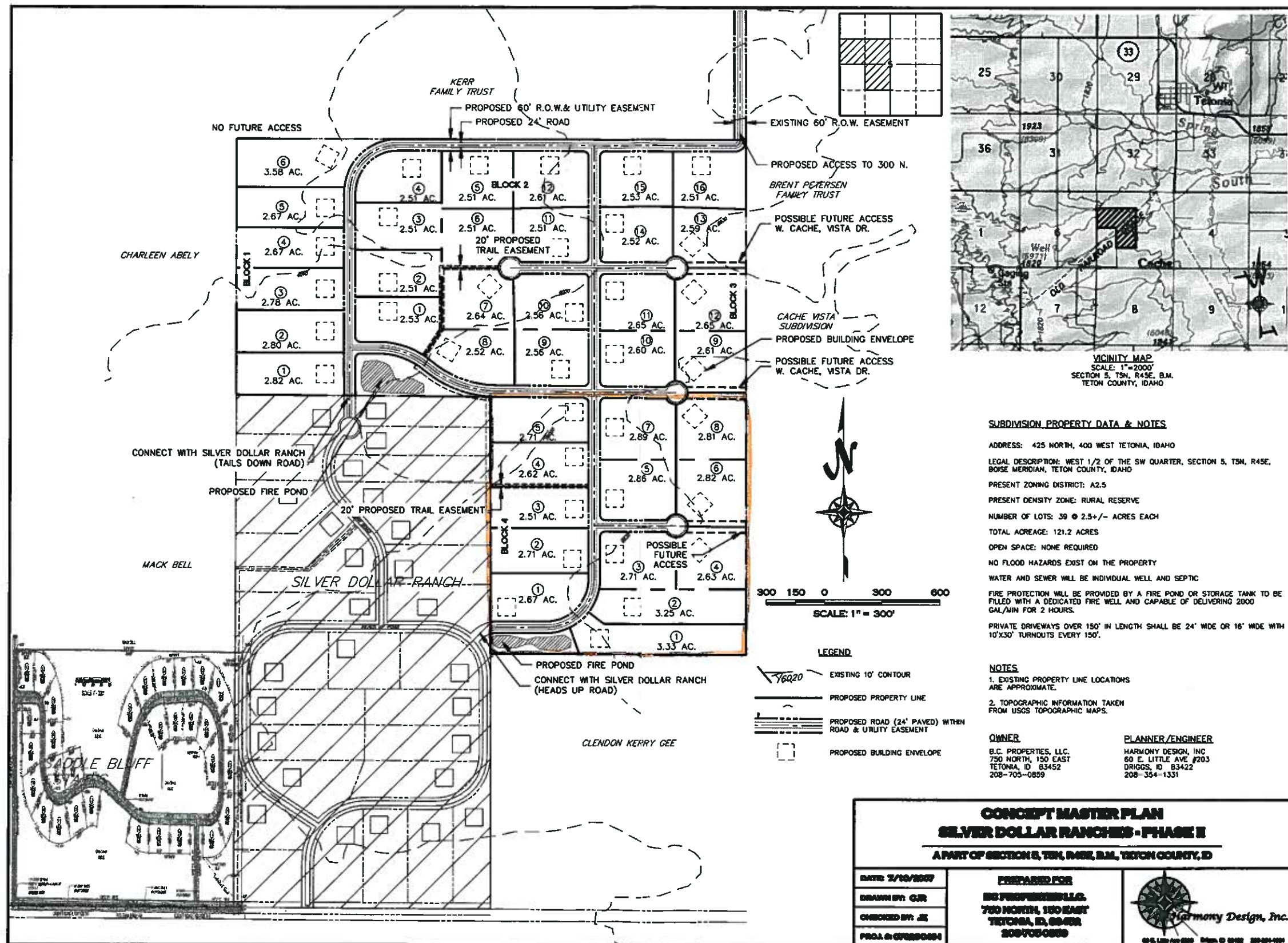
Lots 2 & 3

#6 – 4.2 ac – D Diamond Ranch Homeowners Association, Inc



Scale

See attached Concept Master Plan for entire map.



Area shown on attached map
T5N R45E Sec 5 NESW

Mitigation Plan for Surface and Ground Water Transfers D Diamond Ranch

D Diamond Ranch subdivision has two ponds for fire protection, aesthetics, and wildlife. Two water sources will be used in the ponds: South Leigh Creek and ground water.

Pond Fill – South Leigh Creek

To fill the ponds of 13.3 AF, the existing surface water rights 22-600 and 22-601 will be used. East-west laterals already existing on the property will divert water to the ponds. According to the Driggs Idaho 102676 climate station, the historic consumptive use for irrigation of alfalfa hay-less frequent cuttings is 2.19 AF/ac. To reach a volume of 13.3 AF, 6.1 acres ($13.3 \text{ AF} / 2.19 \text{ AF/ac} = 6.07 \text{ ac}$) of irrigated ground are required. Because of the changes to the irrigated ground due to the addition of the subdivision, at least 6.07 acres will be dried up. Dried up acres will be rounded from 6.07 to 6.1 acres to ensure adequate volume is acquired. The following chart shows the origin of the dried up acres per quarter-quarter within the recommended place of use.

			Roads	Ponds (two)	Housing Footprints (6,000 ft ²)	Driveways	Total Being Dried Up
T6N R45E	Section 33	SESE	1.2	0	0.1	0	1.3
		SWSE	0.6	0	0.1	0	0.7
T5N R45E	Section 4	NENE	0.6	1.1	0.3	0	2.0
		NWNE	0	1.3	0.3	0.5	2.1
Total Acres			2.4	2.4	0.8	0.5	6.1

- Roads were based on 30 foot widths, including a small easement.
- Ponds have been excavated already and surface area has been determined to be 2.4 acres.
- Housing footprints were calculated based on an average of 6,000 ft² according to subdivision covenants. Only the six lots within the water right place of use were included in the calculation.
- Using only driveways for Lots 7 & 8 of D Diamond Ranch totaling at least ¼ mile long and only 16.5 feet wide, the remaining acreage of 0.5 ac will be dried up. Based on Teton County Fire Code, these two driveways will actually be 24 feet wide. Note that additional acres will be dried up with continued development of driveways within the subdivision.

Pond Evaporation – Ground water

Once the ponds are full, ground water will be used to maintain water levels year-round. Applicants have purchased 4.2 acres of water right 22-13818 from B.C. Properties LLC. Two acres will be used for the pond consumptive use, and the remaining 2.2 acres will be used for irrigation of roadside tree lines for landscaping. Calculations show that the existing ponds, which have a surface area of 2.4 acres, will have a total pond loss of 4.3 AF annually. Using the historic consumptive use of 2.19 AF/ac, 2 acres of irrigated ground must be dried up to compensate for evaporative losses ($4.3 \text{ AF} / 2.19 \text{ AF/ac} = 1.96 \text{ ac} = 2 \text{ ac}$). Due to rounding, a total loss of 4.4 AF is proposed to be transferred for evaporation. Total volume to be transferred is determined by calculating volume for 2.0 acres at 2.19 AF/ac where the nature of use will be changed and adding 2.2 irrigated acres at 3.5 AF/ac for a total of 12.1 AF.

The original 4.2 acres of 22-13818 to be dried up are within Lots 2 & 3 of Silver Dollar Ranches, leaving only 0.3 ac of right within Lot 3 (See attached Concept Master Plan of Silver Dollar Ranches).

Summary of Transfer Requirements						
D Diamond Ranch						
Ground Water Transfer						
Right to be Transferred 22-13584	Diversion Rate (cfs)	Volume Limitation (AF)	Place of Use (acres)	cfs per acre	AF per acre*	
	0.88		46.2	0.019	2.19	
Amount of Water Needed For Evaporation		Pond Surface Area (acres)	Acres Equivalent to Evaporation Use**	cfs required to transfer	AF required to transfer	
		2.42	2.0	0.04	4.4	
Amount of Water Needed for Irrigation	Irrigated Acres	cfs required	Total Water Needed	Acres	4.2	
				CFS	0.08	
	2.2	0.04		AF Storage	4.4	
				AF Irrigation	7.7	
Surface Water Transfer						
Right to be Transferred		Diversion Rate (cfs)	Place of Use (acres)	cfs per acre	AF per acre*	
	22-600	0.6	143	0.004	2.19	
	22-601	2.6	143	0.018		
Amount of Water Needed for Pond Storage		Pond Depth (ft)	Pond Surface Area (acres)	Pond Volume (AF)	Acres Needed	
	West Pond	10	1.3	8.0	3.7	
	East Pond	8	1.1	5.3	2.4	

Total Water Needed	22-600	22-601	Total
	Acres	6.1	6.1
	CFS	0.03	0.14
	AF Storage	13.3	13.3

*Value calculated from mean irrigation requirement of alfalfa hay from Allen and Robison Report.
 **See attached Pond Consumptive Use Calculation spreadsheet.



Pond Consumptive Use Calculations
Climate Station: Driggs, Idaho 102676
D Diamond Ranch

Month	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Annual FWW Evaporation (inches)*	35	35	35	35	35	35	35	35	35	35	35	35	35
Monthly Distribution (%)*	1	2	4	7	12	15	19	16	11	6	4	3	100
Monthly FWS Evaporation (in/mo)	0.35	0.7	1.4	2.45	4.2	5.25	6.65	5.6	3.85	2.1	1.4	1.05	35
Avg. Total Precipitation (in/mo)**	1.34	1.11	1.1	1.25	1.83	1.83	1.04	1.17	1.25	1.22	1.07	1.38	15.58
Pond Loss (Evap. - Precip., in)	0	0	0.3	1.2	2.37	3.42	5.61	4.43	2.6	0.88	0.33	0	21.14
Pond Surface Area (acres)	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42	2.42
Total Pond Loss (ac-in)	0.0	0.0	0.7	2.9	5.7	8.3	13.6	10.7	6.3	2.1	0.8	0.0	51.2
Total Pond Loss (ac-ft)	0.0	0.0	0.1	0.2	0.5	0.7	1.1	0.9	0.5	0.2	0.1	0.0	4.3

Note: for months where precipitation exceeds evaporation, the resultant pond loss is set to zero

Irrigation Consumption		Crop
Mean Irrig. Requirement (in/seas.)***	26.3	Alfalfa-less frequent
Mean Irrig. Requirement (ft/seas.)***	2.19	cuttings
Acres to dry up for pond use	1.95	

*Molnau, Myron, Kporde, Kojo C.S., and Craine, Katherine L., 1992. Monthly shallow pond evaporation in Idaho. ASAE paper PNW 92-111.
 **Data obtained from the Western Regional Climate Center, Monthly Climate Summary, Period of Record 9/1/1905 to 5/31/1974. See attached.
 ***Precipitation Deficit values used synonymously with mean irrigation requirement. Values taken from Allen, Richard G. and Clarence W. Robison, 2006 (Revised 2007).
 Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho.
 Used 667 mm for Alfalfa-less frequent cuttings

Memo

To: File

From: Kristin Moore

Date: November 6, 2007

Re: Water Right No. 22-13584

On Friday, October 26, 2007, Shelley Keen, Jeff Peppersack, Ernie Carlsen, Pam Skaggs, Roger Warner, Kristin Moore, Ken Chambers, and Jeff Borer met together in person or by teleconference to discuss water right 22-13584, a split right of 22-7690. The issue at hand was to determine if the ground water right was a primary or secondary right. A Due Diligence was performed on this right prior to the meeting. During the research, language was found in the original license 22-7690 indicating that the ground water was secondary to the surface water rights out of South Leigh Creek. Although the well was developed in 1977, an application for the ground water right was not submitted until 1991 by Mr. James Hatch, the previous property owner who developed the well. During the licensing process, it is believed that an assumption was made that the surface water was still in use. The field examiner made no mention of witnessing surface water being used on the property, only that there were surface water rights that were appurtenant to portions of the property. Since the IDWR database shows active surface water rights, a condition was placed on the ground water license 22-7690 indicating that it was secondary in nature. Based on historical irrigation practices Mr. Hatch detailed to Ken Chambers, one of the owners of right 22-13584, the subject ground in the NESW of Section 5 was never irrigated with surface water due to its higher elevation. Surface water was scarce on the entire place of use since it is located near the end of the Bell-McCracken ditch. Delivery of the full surface water rights was difficult and rare. When the well was developed, Mr. Hatch testified that the ground water was used as the primary source of irrigation from then on.

Based on the evidence discussed, it was determined by the group present at the meeting that the water right 22-13584 was a primary right on the subject ground in the NESW of Section 5, T5N, R45E. A decision was not made as to whether the ground water was primary on the remainder of the lands under the original license as it was not discussed in detail.

RECEIVED

AUG 12 2005

TETON CO., ID
CLERK RECORDER
Order No.: 3050413084-T

WARRANTY DEED

RECEIVED

AUG 12 2005

TETON CO., ID
CLERK RECORDER

FOR VALUE RECEIVED

D Diamond LLC, an Idaho limited liability company

Instrument # 170175

DRIGGS, TETON, IDAHO
2005-08-12 02:19:56 No. of Pages: 2
Recorded for: ALLIANCE TITLE & ESCROW
NOLAN G. BOYLE Fee: 6.00
Ex-Officio Recorder Deputy *NGB*
Index to: DEED, WARRANTY

the grantor(s), do(es) hereby grant, bargain, sell and convey unto

Ludwig M. Long and Annette Long, Husband and Wife as to an undivided 25% interest, Robert Brooks, a married man as his sole & separate property as to an undivided 25% interest, FYC Properties, LLC, a Utah limited liability company as to an undivided 12.5% interest, Prime Properties of Jackson Hole, LLC, a Wyoming limited liability company as to an undivided 12.5% interest, Rendezvous, LLC, an Idaho limited liability company as to an undivided 25% interest

whose current address is

PO Box 1170, Wilson, WY 83014

the grantee(s), the following described premises, in Teton County, Idaho, TO WIT:

Parcel 1: Beginning at the Northeast corner of Section 4, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence West 160 rods, thence South 30 rods, thence East 160 rods, thence North 30 rods to the place of beginning.

Parcel 2: Beginning at the Southeast corner of Section 33, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running thence West 160 rods, thence North 160 rods, thence East 80 rods, thence South 80 rods, thence East 80 rods, thence South 16 rods, thence West 80 rods, thence South 20 rods, thence East 80 rods, thence South 44 rods, to the place of beginning.

Parcel 3: Beginning at the Southeast corner of Lot 1, Section 4, Township 5 North, Range 45 East, Boise Meridian, Teton County, Idaho, thence West 160 rods, thence North 50 rods, thence East 160 rods, thence South 50 rods to the place of beginning.

Parcel 4: Beginning 16 rods South of the Northeast corner of the SE ¼ of the SE ¼ of Section 33, Township 6 North, Range 45 East, Boise Meridian, Teton County, Idaho, thence West 80 rods, thence South 20 rods, thence East 80 rods, thence North 20 rods to the place of beginning.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee(s), that (s)he is/are the owner(s) in fee simple of said premises; that they are free from all encumbrances Except: Current Year Taxes, conditions, covenants, restrictions, reservations, easements, rights and rights of way, apparent or of record.

And that (s)he will warrant and defend the same from all lawful claims whatsoever.

Dated: 8/8/05

D Diamond LLC

By: John Lundblade
By: John Lundblade, Managing MemberState of IdahoCounty of Bonneville

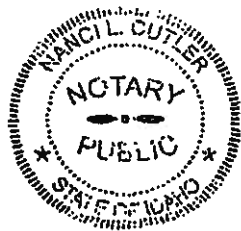
} ss.

On this 8th day of August 2005, before me, a Notary Public in and for said state, personally appeared John Lundblade known or identified to me to be the Managing Member of the Limited Liability Company known as D Diamond, LLC who executed the foregoing instrument, and acknowledged to me that he executed the same in said LLC name.

170175

74685

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Nancil L. Cutler
Notary Public for the State of
Residing at: *Idaho Falls*
Commission Expires: *8-27-2005*

170175

74685

**WATER RIGHTS PURCHASE
AND SALE AGREEMENT**

THIS AGREEMENT is made and entered into this 27th day of November, 2007, (the "Effective Date") by and between BC Properties, LLC, an Idaho Limited Liability Company, of P.O. Box 28, Driggs, Id 83422, hereafter "SELLER", and D Diamond Ranch Home Owners Association, Inc., care of: Prime Properties of Jackson Hole, LLC, P.O. Box 1170, Wilson, Wyoming 83014, hereafter "BUYER";

WITNESSETH:

That for and in consideration of the mutual covenants and agreements set forth below, the parties hereto agree as follows:

1. **Water Right Purchase.** SELLER hereby sells to BUYER, and BUYER hereby purchases from SELLER, the following described water right or water right portion for the consideration and subject to the terms and conditions contained herein:

A portion of Idaho Department of Water Resources (IDWR)
Water Right License No. 22-13584.

Source:	Ground water
Purpose:	Irrigation
Priority:	January 8, 1991
Quantity (Diversion Rate):	0.09 cfs (Total of the right is 0.88 cfs for 46.2 acres)
Quantity (Volume):	
Place of Use (Acreage):	Up to 4.50 acres.

The above portion of Water Right No. 22-13584 is hereinafter referred to as the "Water Right." The Water Right shall be conveyed from SELLER to BUYER by Special Warranty Deed, in the form set forth in Exhibit "A" attached hereto. Said Special Warranty Deed will be executed and recorded by SELLER as grantor to BUYER as grantee, and delivered to grantee together with Idaho Department of Water Resources (IDWR) Change of Ownership Form in the form attached hereto as Exhibit "B" upon closing.

for a maximum of 4.50 acres, lawful money of the United States, to be paid by BUYER to SELLER as follows:

- a. **Down Payment.** The sum of _____
(_____) shall be paid into an escrow account as a down payment upon the execution of this agreement, receipt whereof is hereby acknowledged by SELLER;
 - b. **Remaining Balance.** The remaining balance of _____
_____ or the balance remaining calculated on
the basis of _____ or that amount
actually transferred to the BUYER, shall be paid in cash, within thirty (30) days of receipt of notice of formal approval by Idaho Department of Water Resources of the Application for Transfer referenced in Paragraph 3 hereof.
3. **Application for Transfer.** It is understood and agreed that BUYER will initiate the appropriate transfer proceeding under *Idaho Code* §§ 42-108 and 42-222, by filing an application with IDWR in the form attached hereto as Exhibit "C" to change the point of diversion, place of use and nature of use of the Water Right as provided in said application. The filing fees and all costs and expenses of such proceedings shall be borne by BUYER. This transfer and water right will remain in the name of BC Properties LLC until the contract is closed and paid for by the BUYER. The BUYER's place of use and point of diversion will be used for the transfer. The parties agree to cooperate in the prosecution of said transfer proceeding to the end that it might be approved by the Idaho Department of Water Resources with as much dispatch as possible.
4. **Closing.** The closing of this transaction and delivery of the executed Assignment to BUYER and the entire purchase price for the contract to SELLER shall take place at Alliance Title & Escrow Corporation, within thirty days of BUYERS receipt of approval from the Department of the application for transfer. The BUYERS shall be given possession and use of the water right and the water appurtenant thereto, upon closing.

5. **Processing of Application for Transfer.** In the event the transfer is not approved by the Idaho Department of Water Resources, or not approved in a manner satisfactory to BUYER, BUYER shall have the right to have said application withdrawn. In the event BUYER withdraws said application, SELLER agrees to refund any portion of the purchase price paid by BUYER prior to the date of such withdrawal, to BUYER, without interest, within thirty (30) days of the filing of the Notice of Withdrawal.
6. **Signature Deadline.** SELLER hereby agrees to sign this Agreement within ten (10) business days after BUYER signs this Agreement. If SELLER does not sign the Agreement within the specified time period, BUYER may terminate this Agreement by providing written notice to SELLER within twenty (20) business days after BUYER signs this Agreement.
7. **Seller's Representations and Warranties.** SELLER represents and warrants to BUYER that:
- 7.1 **Authority.** SELLER is a validly existing Idaho Limited Liability Company and has full power and authority to enter into this Agreement and complete the Transaction.
- 7.2 **Binding Agreement.** Upon SELLER's execution of this Agreement, this Agreement will be binding and enforceable against SELLER in accordance with its terms.
- 7.3 **Title.** SELLER has fee title to the Water Right. SELLER believes in good faith that there are no unrecorded agreements, leases, liens or encumbrances which may affect title to the Water Right.
- 7.4 **Other Agreements.** SELLER shall not, prior to any termination of this Agreement, enter into or execute any easement, encumbrance, lease, or other agreement, with respect to the Water Right. SELLER shall not solicit any other offers for the portion of the Water Right in which BUYER and SELLER are under contract to purchase.

7.5 **No Litigation or Condemnation.** There are no suits, claims, proceedings or investigations pending or threatened with respect to the Water Right or which will adversely affect SELLER's ability to meet its obligations with respect to this Agreement. SELLER has no knowledge of or reason to suspect any proposed public improvements that could result in any condemnation or taking of all or a portion of the Water Right.

7.6 **Snake River Basin Adjudication.** SELLER has researched and reviewed the Water Right and warrants that claims for the Water Right have been filed in the Snake River Basin Adjudication (the "SRBA").

8. **BUYER's Representations and Warranties.** BUYER represents and warrants to SELLER that:

8.1 **Authority.** BUYER is a validly existing Idaho Limited Liability Company and has full power and authority to enter into this Agreement and complete the Transaction.

8.2 **Binding Agreement.** Upon BUYER's execution of this Agreement, this Agreement will be binding and enforceable against BUYER in accordance with its terms, and upon BUYER's execution of the additional documents contemplated by this Agreement, they will be binding and enforceable against BUYER in accordance with their terms.

9. **Attorney's Fees.** Should either party default in the performance of any of the covenants or agreements contained herein, such defaulting party shall pay to the other party all costs and expenses, including, but not limited to, a reasonable attorney fee, including such fees on appeal, which the offended party may incur in enforcing this agreement or in pursuing any remedy allowed by law for breach hereof, whether such is incurred by the filing of suit or otherwise.

10. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original but all of which constitute one and the same instrument. The signature pages may

be detached from each counterpart and combined into one instrument. This Agreement may be signed and delivered by facsimile (fax or email) which shall be effective as an original.

11. **Binding Effect.** This Agreement is binding upon and inures to the benefit of the parties to this Agreement and their respective successors and assigns.
12. **Reliance Upon Statements/Integration and Merger.** This Agreement sets forth the entire understanding of the parties with respect to the matters set forth in this Agreement as of the date both Buyer and Seller sign the Agreement; it supersedes all prior oral or written agreements of the parties as to the matters set forth in this Agreement; and it cannot be altered or amended except by an instrument in writing, signed by Buyer and Seller.
13. **Severability.** If any provision of this Agreement or any portion of any provision of this Agreement is determined to be invalid, illegal or unenforceable, the invalidity, illegality or unenforceability may not alter the remaining portion of such provision, or any other provision of this Agreement, as each provision of this Agreement is deemed severable from all other provisions of this Agreement.
14. **Governing Law.** This Agreement is governed by, and construed and enforced in accordance with, the laws of the State of Idaho.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

RC PROPERTIES, LLC

[Signature]
By: Ken R. Chambers
Its: Member

D DIAMOND RANCH

[Signature] Bruce Simoi
By: Manager
Its: Manager

2004 Water Right Purchase Agreement Diamond Ranch Water Right Sale Agreement

Termination Date: December 15, 2007

If BUYER does not accept this contract of sale on or before the Termination Date above, this contract is voidable by the SELLER.

Exhibit A Form of Deed

When Recorded Return To:

xxx

SPECIAL WARRANTY DEED FOR WATER RIGHT

[Name of Seller], an [type of company] registered to do business in [state] as [name], whose address is [address] ("Grantor"), does hereby grant, bargain, sell, assign, and convey unto [Name of Seller], an [type of company] registered to do business in [state] as [name], whose address is [address] ("Grantee"), and to Grantee's heirs, successors, and assigns forever, all of Grantor's right, title, and interest in the Water Right described in Exhibits [xxx] hereto (collectively the "Water Right").

Grantor assigns to Seller any other interest it may have in the Water Right including any claim, permit, license, or shares of stock evidencing, claiming, or representing such Water Right.

To the extent the Water Right, or any of them, are represented by a permit or other property not conveyable by deed, this deed shall be deemed and shall operate as a bill of sale therefore.

Grantor retains no residual or reversionary interest in any of the Water Right.

Grantor hereby covenants and warrants to Grantee as follows:

- (A) that Grantor is the owner in fee simple of the Water Right;
- (B) that Grantor has not conveyed any of the Water Right to anyone other than Grantee;
- (C) that each of the Water Right is free from all liens, claims, or encumbrances;
- (D) that Grantor has the authority to convey the Water Right to Grantee;
- (E) the Grantor has disclosed to Grantee in good faith all relevant information known to Grantor bearing on the validity and extent of the Water Right.

Grantor makes no other covenants or warranties as to the Water Right.

[end of text; signature page to follow]

IN WITNESS WHEREOF, the undersigned authorized officers of Grantor, acting on behalf of Grantor, have caused their names to be hereunto subscribed on the date shown by each name.

Grantor:

[NAME OF SELLER]

Dated: _____

By: _____

Name

Title

Exhibits:

Exhibit 1 to Water Right Deed: Description of Water Right No. [number] (or portion thereof)

Exhibit 2 to Water Right Deed: Description of Water Right No. [number] (or portion thereof)

[Etc.]

[Add appropriate notary forms]

Exhibit B

See the attached two pages, "*Notice of Change of Water Right Ownership*" form.

Exhibit C

IDWR Transfer Application Form