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Tracie K. Lindeman  
Clerk of Supreme Court

8 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

9 JOHN AND MELISSA FRITZ,

10 Plaintiff-Appellants,

CASE NO. 67660

11 vs.

12 WASHOE COUNTY,

13 Defendant-Respondent,  
14 \_\_\_\_\_/

15 **JOINT APPENDIX**

16 **Volume 1**

17 Appellants John and Melissa Fritz and Respondent Washoe County, by and  
18 through the undersigned counsel, respectfully submit Volume 1 of the Joint Appendix  
19 to the briefs for the above captioned proceeding.

- 20 1. Order on Motion for Summary Judgment: Bates No. 1-6  
21 2. Third Amended Complaint: Bates No. 7-16  
22 3. Third Amended Complaint Exhibit 1: Bates No. 17-18  
23 4. Third Amended Complaint Exhibit 2: Bates No. 19-22  
24 5. Affidavit of Service: Bates No. 23-24  
25 6. Answer to Third Amended Complaint: Bates No. 25-32  
26 7. Motion for Summary Judgment: Bates No. 33-48  
27 8. Motion for Summary Judgment Exhibit 1: Bates No. 49-50  
28 9. Motion for Summary Judgment Exhibit 2: Bates No. 51-54



- 1 10. Motion for Summary Judgment Exhibit 3: Bates No. 55-58
- 2 11. Motion for Summary Judgment Exhibit 4: Bates No. 59-62
- 3 12. Motion for Summary Judgment Exhibit 5: Bates No. 63-66
- 4 13. Motion for Summary Judgment Exhibit 6: Bates No. 67-70
- 5 14. Motion for Summary Judgment Exhibit 7: Bates No. 71-74
- 6 15. Motion for Summary Judgment Exhibit 8: Bates No. 75-78
- 7 16. Motion for Summary Judgment Exhibit 9: Bates No. 79-82
- 8 17. Motion for Summary Judgment Exhibit 10: Bates No. 83-86
- 9 18. Motion for Summary Judgment Exhibit 11: Bates No. 87-90
- 10 19. Motion for Summary Judgment Exhibit 12: Bates No. 91-94
- 11 20. Motion for Summary Judgment Exhibit 13: Bates No. 95-96
- 12 21. Motion for Summary Judgment Exhibit 14: Bates No. 97-98
- 13 22. Opposition to Motion for Summary Judgment: Bates No. 99-121
- 14 23. Opposition to Motion for Summary Judgment Exhibit 1: Bates No. 122-129
- 15 24. Opposition to Motion for Summary Judgment Exhibit 2: Bates No. 130-137
- 16 25. Opposition to Motion for Summary Judgment Exhibit 3: Bates No. 146-148
- 17 26. Opposition to Motion for Summary Judgment Exhibit 4: Bates No. 149-151
- 18 27. Opposition to Motion for Summary Judgment Exhibit 5: Bates No. 152-157
- 19 28. Opposition to Motion for Summary Judgment Exhibit 6: Bates No. 158-186
- 20 29. Opposition to Motion for Summary Judgment Exhibit 7: Bates No. 187-209
- 21 30. Opposition to Motion for Summary Judgment Exhibit 8: Bates No. 210-227
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Respectfully submitted this Monday, June 29, 2015.

By:                     /s/ Luke Busby                      
Luke Busby, Esq.  
216 East Liberty St.  
Reno, NV 89501  
*Attorney for John and Melissa Fritz*

By:                     /s/ Michael Large                      
Michael Large, Esq.  
Washoe County DA's Office  
P.O. Box 11130  
Reno, NV 89520



IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

\*\*\*

JOHN and MELISSA FRITZ,

Plaintiffs,

Case No. CV13-00756

Dept. No. 1

vs.

WASHOE COUNTY

Defendants.

ORDER

On February 2, 2015, Defendant Washoe County, by and through counsel, Michael Large, Esq., filed *Defendant Washoe County's Motion for Summary Judgment*. On February 13, 2015, Plaintiffs John and Melissa Fritz (Plaintiffs) by and through counsel, Luke Busby, Esq., filed an *Opposition to Motion for Summary Judgment*. On February 24, 2015, Washoe County replied and submitted the matter for decision.

This dispute arises from the following facts. Plaintiffs filed a *Verified Complaint* on April 4, 2013, alleging causes of action for trespass, nuisance, and inverse condemnation against Washoe county and other parties who have either been voluntarily dismissed or dismissed by this Court. On November 1, 2013, Plaintiffs filed a *Second Amended Complaint* pursuant to a stipulation. On May 8, 2014, this Court granted Plaintiffs' *Motion to File a Third Amended Complaint* asserting a claim for inverse condemnation against Washoe County. Plaintiffs claim for inverse condemnation is the only remaining claim against Washoe County.



1 Plaintiffs own property located in Reno at 14400 Bhiler Road. The property was originally  
2 owned by John and Dora Du Puy, who took ownership of the land by way of a United States patent  
3 in 1961. In 2001, Plaintiffs purchased the property from the Du Puys, built a home, and thereafter  
4 rented the property to a tenant. White's Creek No. 4 has crossed a back corner of Plaintiffs' Reno  
5 property since at least 1948. In 1984, Washoe County began approving portions of the Lancer  
6 Estates development, which was to be built in 11 consecutive phases, and is located upstream of  
7 Plaintiffs' property. The last plat approval for Lancer Estates was in 1991. The construction of  
8 Lancer Estates was complete or almost complete by the time Plaintiffs built their house. Washoe  
9 County approved subdivision plats for another upstream development, Monte Rosa, sometime after  
10 Plaintiffs built their home.

11 Plaintiffs contend that upstream development by Lancer Estates and Monte Rosa have  
12 increased the flow rate and quantity of water moving through White's Creek, which leads to flooding  
13 from large rainstorms. Mr. Fritz avers that in 2002, he was easily able to walk across White's Creek,  
14 but that the creek has significantly increased in size and depth. Plaintiffs allege the dedications of  
15 curbs, gutter and storm drain in the Lancer and Monte Rose Estates, and approval of final maps,  
16 constitute involvement in the development of Lancer and Monte Rose Estates which have caused  
17 storm waters to flood Plaintiffs property. Third Amended Compl. ¶¶ 39-41. Plaintiffs allege the  
18 "continuous flooding on the Plaintiff's Property caused by the development of Lancer Estates and  
19 Monte Rosa, and other activities of Washoe County constitutes a permanent physical invasion of the  
20 Property. Third Amended Compl. ¶ 43.

21 Washoe County contends Plaintiffs' claim for inverse condemnation fails because Plaintiffs  
22 lack standing to asserts a claim against Washoe County for action occurring before Plaintiffs'  
23 ownership in 2001, because Washoe county never accepted the dedications of drain water facilities  
24 as asserted in the *Third Amended Complaint*, approval of the final map for a development does not  
25 create municipal liability for inverse condemnation, and because Plaintiffs have failed to provide any  
26 evidence a taking has occurred or that Plaintiffs have been substantially injured by the actions of  
27 Washoe County.  
28



1 Municipal Liability for a Taking by Inverse Condemnation

2 Washoe County contends the act of approving a subdivision is legally insufficient to form  
3 the basis of an inverse condemnation claim as alleged in the *Third Amended Complaint*. There is no  
4 case law directly addressing this issue in Nevada, however cases from California are instructive.

5 Washoe County relies on *Ullery et al. v. Contra Costa County*, 202 Cal.App.3d 562, 248  
6 Cal. Rptr. 727 (1988). In *Ullery*, Contra Costa County was sued by a downstream property owner  
7 for inverse condemnation for damage to the owner's property due to landslides allegedly caused by  
8 erosion from water drainage flowing from a county-approved subdivision. Similar to Plaintiffs  
9 argument here, the landowner alleged the County's approval of the subdivision created municipal  
10 liability for inverse condemnation. The landowner argued pursuant to California Subdivision Map  
11 Act, which vested the power to regulate the design of subdivisions, the County created a  
12 "'residential environment' conducive to landslide damage." *Id.* at 570 The California Court of  
13 Appeals held "inverse condemnation liability will not lie for damage to private property allegedly  
14 caused by private development approved or authorized by the public entity, 'where the [public  
15 entity's] sole affirmative action was the issuance of permits and approval of the subdivision map.'" *Id.*  
16 citing *Yox v. City of Whittier*, 182 Cal.App.3d 347, 353. The Court of Appeals recognized the  
17 development approved by Contra Costa County was by private parties on private properties and the  
18 record did not indicate Contra Costa County had performed any acts on the private property in order  
19 to establish inverse condemnation liability." *Ullery, supra*, 202 Cal.App.3d at 571.

20 Similarly, in *Ellison v. City of San Buenaventura*, 60 Cal.App.3d 453 (1976), the California  
21 Court of Appeals held no inverse condemnation liability existed when a downstream landowner  
22 sued for sediment buildup which occurred "at a faster rate than would have occurred without the  
23 upstream development authorized by the city. *Ullery, supra*, 202 Cal.App.3d at 570. The Court  
24 reasoned liability did not exist because the city "played no part [in the private development of the  
25 upstream property] other than [the] approval of plans and issuance of permits." *Ellison, supra*, 60  
26 Cal.App.3d at 459.

27 Plaintiffs contend Washoe County's involvement extends beyond approval of subdivision  
28 maps pursuant to NRS 278.0284 and Sections 110.602.05(a) and 110.420.20(d) of the Washoe



1 County Development Code. Plaintiffs contend NRS 278.0284 and Section 110.602.05(a) require  
2 any action of a local government relating to development, zoning, or subdivision of land or capital  
3 improvements to conform to the local government's master plan. Section 110.420.20(d) of the  
4 Development Code provides development of property shall not adversely affect any natural  
5 drainage facility or natural watercourse, among other things. Plaintiffs aver these regulations and  
6 statute render the County's approval of the maps and acceptance of the dedications in Lancer  
7 Estates substantial involvement in the development of the subdivisions. Plaintiffs do not produce  
8 any statutes or case law supporting this position.

9 Plaintiffs rely on *Clark County v. Powers*, 96 Nev. 497, 611 P.2d 1072 (1980), to support a  
10 finding of liability for inverse condemnation. In *Clark County*, the county was found liable for  
11 inverse condemnation as a result of its actions in conjunction with private parties which resulted in  
12 water damage to private property. However, the facts of *Clark County* are distinguishable from this  
13 case. In *Clark County*, the county had entered onto private property, without authorization and  
14 constructed a rock berm. *Id.* at 500-01. The county filled, leveled, and graded an intersection,  
15 elevated a street, and constructed beds to divert water which eventually caused water to empty onto  
16 private property. *Id.* The county actively participated in engaging in the construction and leaving of  
17 streets and intersections. Here, Washoe County did not design or construct anything resulting in  
18 water being diverted onto Plaintiffs' property. Washoe County approved the final maps of Lancer  
19 and Monte Rosa subdivisions to ensure that said subdivisions complied with building code. The  
20 record demonstrates there was no activity done by Washoe County on private property.

21 Summary judgment under NRCP 56 is appropriate when the record demonstrates no  
22 genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.  
23 *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). A genuine issue exists  
24 where the evidence is such that a rational trier of fact could return a verdict for the nonmoving  
25 party. *Id.* at 731, 121 P.3d at 1031. The nonmoving party's documentation must be admissible  
26 evidence and cannot build a case "on the gossamer threads of whimsy, speculation and conjecture."  
27 *Id.* at 731, 121 P.3d at 1030. NRCP 56 "requires the nonmoving party to go beyond the pleadings  
28 and by her own affidavits, or by the 'depositions, answers to interrogatories, and admissions on




1 file,' designate 'specific facts showing that there is a genuine issue for trial.'" *Celotex Corp. v.*  
2 *Catrett*, 477 U.S. 317, 324 (1986). A factual dispute is genuine when the evidence is such that a  
3 rational trier of fact could return a verdict for the nonmoving party. *Wood*, 121 Nev. at 731, 121  
4 P.3d at 1031.

5 The Court has considered the pleadings and record in its entirety. The Court finds inverse  
6 condemnation is not a legally viable theory of liability in this case. By approving the subdivision  
7 maps and dedications there was no substantial involvement in the development of Lancer or Monte  
8 Rosa through which inverse condemnation liability may apply. The Court has also considered  
9 Defendant Washoe County's remaining arguments and finds them to be meritorious. Accordingly,  
10 and good cause appearing, *Defendant Washoe County's Motion for Summary Judgment* is  
11 GRANTED.

12  
13 IT IS SO ORDERED.


14 DATED this 19<sup>th</sup> day of March 2015.

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18 JANET J. BERRY  
19 District Judge  
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Luke Andrew Busby, Esq.  
Michael Large, Esq.

  
Tiffany Clements



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5 Attorney for John and Melissa Fritz

6 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

7 **IN AND FOR THE COUNTY OF WASHOE**

8 JOHN AND MELISSA FRITZ,

9 Plaintiffs,

CASE NO. CV13-00756

10 vs.

DEPT NO. 1

11 WASHOE COUNTY

12 Defendant(s),  
13 \_\_\_\_\_/

14 **THIRD AMENDED VERIFIED COMPLAINT**

15 COMES NOW, JOHN FRITZ and MELISSA FRITZ, a married couple ("Plaintiffs"),  
16 residents of Washoe County, Nevada, by and through the undersigned counsel and hereby files  
17 the following Complaint, requesting an order from the Court requiring the named Defendants  
18 herein below to compensate Plaintiffs for the taking and condemnation of their property at  
19 14400 Bihler Rd., Washoe County APN No. 142-241-63 (hereinafter "the Property" or  
20 "Plaintiff's Property"). The Property that has been taken is more particularly described in  
21 Exhibit 1, attached hereto and incorporated herein by reference.

22 **Party Identification**

- 23 1. Plaintiffs at all times relevant hereto were residents of Washoe County, State of  
Nevada.  
24 2. Washoe County is a political subdivision of the State of Nevada.  
25 3. The names of all owners, occupants of and claimants to the Property that has been  
26 condemned by Washoe County herein insofar as known to Plaintiffs are as follows: a) Bank of  
27 America, NA as holder of a Revolving Credit Deed of Trust on the Property; b) Wells Fargo  
28 Bank, NA as holder of a Deed of Trust on the Property); and (c) Mr. James Bedlam, who leases



1 the Property from Plaintiffs.

2 **Allegations of Fact**

3 4. Plaintiffs are informed and believe, and thereupon allege, the following facts:

4 5. Washoe County is authorized to exercise the power of eminent domain and to  
5 condemn property.

6 6. Washoe County is a member in and participates in the National Flood Insurance  
7 Program, ("NFIP").

8 7. By virtue of its membership in the NFIP, Washoe County is required to manage  
9 floodplains within Washoe County in ways that meet or exceed standards set by the Federal  
10 Emergency Management Agency ("FEMA").

11 8. Washoe County manages floodplains in ways that meet or exceed the standards set  
12 by FEMA by placing restrictions on the development of and supervising the development of  
13 private land and by adopting the activities of developers, pursuant to various provisions of the  
14 Washoe County Code and Washoe County's Master Plan.

15 9. Washoe County manages the flow of water in the Whites Creek Hydrological  
16 Basin above the Plaintiff's Property by controlling at least one diversion structure on Whites  
17 Creek located near Whites Creek County Park for water rights and flood control purposes.

18 10. Since approximately 1984, Washoe County substantially participated in the  
19 planning and development of and has approved the building plans for housing developments  
20 located within Washoe County commonly known as Lancer Estates and Monte Rosa.

21 11. Washoe County has approved of and adopted the activities of the developers of  
22 Lancer Estates and Monte Rosa pursuant to Article 416 of the Washoe County Code (which  
23 regulates flood hazards), Article 418 of the Washoe County Code (which regulates Significant  
24 Hydrologic Resources), Article 420 (which regulates Storm Drainage Standards), and other  
25 provisions of the Washoe County Code and Washoe County's Master Plan.

26 12. For both Lancer Estates and Monte Rosa, Washoe County approved of and adopted  
27 the activities of the developers of Lancer Estates and Monte Rosa by requiring the submittal of  
28 planning applications and tentative maps which directed the developers of Lancer Estates and  
Monte Rosa to build Lancer Estates and Monte Rosa in accordance with Washoe County's  
applicable rules and regulations regarding the drainage of water from Lancer Estates and Monte  
Rosa.

13. For both Lancer Estates and Monte Rosa, Washoe County approved of and adopted



1 the activities of the developers of Lancer Estates and Monte Rosa by issuing Action Orders  
2 based on the submittal of planning applications and tentative maps, which directed the  
3 developers of Lancer Estates and Monte Rosa to build Lancer Estates and Monte Rosa in  
4 accordance with Washoe County's applicable rules and regulations regarding the drainage of  
5 water from Lancer Estates and Monte Rosa into the natural drainage commonly known as  
6 Whites Creek No. 4.

7 14. On or about November 29, 1984, Washoe County accepted dedication of the curbs,  
8 gutters, and storm drains in Lancer Estates Unit 2 by approving the final map for Lancer Estates  
9 Unit 2 or by later accepting dedication of said facilities and such facilities drain water from  
10 Lancer Estates to the Plaintiff's Property.

11 15. On or about April 1, 1991, Washoe County accepted dedication of the curbs,  
12 gutters, and storm drains in Lancer Estates Unit 3 by approving the final map for Lancer Estates  
13 Unit 3 or by later accepting dedication of said facilities which drain water from Lancer Estates  
14 to the Plaintiff's Property.

15 16. On or about June 26, 1992, Washoe County accepted dedication of the curbs,  
16 gutters, and storm drains in Lancer Estates Unit 4 by approving the final map for Lancer Estates  
17 Unit 4 or by later accepting dedication of said facilities which drain water from Lancer Estates  
18 to the Plaintiff's Property.

19 17. On or about May 23, 1993, Washoe County accepted dedication of the curbs,  
20 gutters, and storm drains in Lancer Estates Unit 5 by approving the final map for Lancer Estates  
21 Unit 5 or by later accepting dedication of said facilities which drain water from Lancer Estates  
22 to the Plaintiff's Property.

23 18. In April of 1994, Washoe County accepted a Preliminary Whites Creek Basin  
24 Management Study ("Cella Bar Study") prepared by Cella Bar Associates, which had been  
25 commissioned by Washoe County to study the hydrology of the Whites Creek area.

26 19. The Cella Bar Study indicates on page 15 that "Existing Problem Areas" include  
27 "Some of the residential lots backing up adjacent to the south of [Whites Creek] Channel No. 4  
28 have potential for flooding during a 100-year event." (See Exhibit 2)

20. The Plaintiff's Property is located in the area identified as a problem area in the  
Cella Bar Study.

21. On or about May 17, 1994, Washoe County accepted dedication of the curbs,  
gutters, and storm drains in Lancer Estates Unit 6 by approving the final map for Lancer Estates



1 Unit 6 or by later accepting dedication of said facilities which drain water from Lancer Estates  
2 to the Plaintiff's Property.

3 22. On or about September 20, 1994, Washoe County accepted dedication of the curbs,  
4 gutters, and storm drains in Lancer Estates Unit 7 by approving the final map for Lancer Estates  
5 Unit 7 or by later accepting dedication of said facilities which drain water from Lancer Estates  
6 to the Plaintiff's Property.

7 23. On or about June 20, 1995, Washoe County accepted dedication of the curbs,  
8 gutters, and storm drains in Lancer Estates Unit 8 by approving the final map for Lancer Estates  
9 Unit 8 or by later accepting dedication of said facilities which drain water from Lancer Estates  
10 to the Plaintiff's Property.

11 24. On or about July 30, 1999, Washoe County accepted dedication of the curbs,  
12 gutters, and storm drains in Lancer Estates Unit 10 by approving the final map for Lancer  
13 Estates Unit 10 or by later accepting dedication of said facilities which drain water from Lancer  
14 Estates to the Plaintiff's Property.

15 25. On or about December 13, 2005, Washoe County accepted dedication of certain  
16 storm drains and/or detention ponds in Monte Rosa Unit 1 by approving the final map for Monte  
17 Rosa Unit 1 or by later accepting dedication of said facilities which drain water from Monte  
18 Rosa to the Plaintiff's Property.

19 26. On or about November 21, 2007, Washoe County accepted dedication of certain  
20 storm drains and/or detention ponds in Monte Rosa Unit 2 by approving the final map for Monte  
21 Rosa Unit 2 or by later accepting dedication of said facilities which drain water from Monte  
22 Rosa to the Plaintiff's Property.

23 27. To the best of the Plaintiff's knowledge and belief, development at Monte Rosa is  
24 ongoing at the time of the filing of this amended complaint.

25 28. The development Monte Rosa by Washoe County and various third parties has  
26 caused alteration, diversion, channeling, and acceleration of rain, nuisance, and flood waters  
27 onto the Plaintiff's Property by substantially increasing the amount of water and accelerating the  
28 flow of that water across the natural drainage commonly known as Whites Creek No. 4, which  
crosses the Plaintiff's Property.

29 29. The development Lancer Estates by Washoe County and various third parties has  
caused alteration, diversion, channeling, and acceleration of rain, nuisance, and flood waters  
onto the Plaintiff's Property by substantially increasing the amount of water and accelerating the



1 flow of that water across the natural drainage commonly known as Whites Creek No. 4, which  
2 crosses the Plaintiff's Property.

3 30. Water from Lancer Estates and Monte Rosa drains onto Plaintiff's Property and is  
4 causing substantial and ongoing damage to the Property including but not limited to the cutting  
5 of a large ditch on the corner of the Fritz's property, flooding of buildings on the Fritz's  
6 property, and sheet flooding over a large area of the Property during storm events.

7 31. The development of Lancer Estates and Monte Rosa, and other activities of  
8 Washoe County, have altered the FEMA floodplain on Whites Creek No. 4 such that it covers a  
9 greater area of the Plaintiff's Property than previous to the development of Lancer Estates and  
10 Monte Rosa.

11 32. Movement of the FEMA floodplain as described above makes a large area of the  
12 Plaintiff's Property unsuitable for further development or improvement without incurring  
13 substantial cost and efforts to prevent flooding.

14 33. Various improvements required or made by Washoe County in the development of  
15 Lancer Estates and Monte Rosa, and other activities of Washoe County involving drainage of  
16 water into Whites Creek No. 4, are public improvements, i.e. made for the benefit of the public  
17 at the expense of the Plaintiff, and are the cause of the Plaintiff's damages.

18 34. Washoe County has allowed and has substantially participated in the development  
19 of Lancer Estates and Monte Rosa, which adds to and accelerates flows of water in Whites  
20 Creek No. 4 despite knowing since at least 1994 upon receiving the Cella Bar Study that the  
21 area where the Plaintiff's Property is located in an existing problem area subject to flooding.

22 35. The use of the Plaintiff's Property by Washoe County for a floodway for the runoff  
23 of water from upstream properties as described above constitutes a public use.

24 36. The Plaintiffs have suffered damages as a result of the taking of their Property by  
25 Washoe County.

### 26 **Claim for Relief**

### 27 **Inverse Condemnation**

28 37. Plaintiffs re-allege the foregoing paragraphs as though the same were set forth  
hereat verbatim, incorporating every one herein by this reference into the claims listed below.

38. Per NRS 278.390, title to dedicated facilities in Lancer Estates and Monte Rosa  
passed to Washoe County either on recordation of the final maps or subsequent acceptance by  
Washoe County.



1       39. By virtue of Washoe County's substantial involvement in the development of  
2 Lancer Estates and Monte Rosa and Washoe County's adoption of the activities of the  
3 developers of Lancer Estates and Monte Rosa as part of Washoe County's Master Plan and  
4 requirements in the Washoe County Code for the drainage and flood control of the area, Washoe  
5 County has exercised the power of eminent domain over the Plaintiff's Property in violation of  
6 Article 1, Sections 8 and 22 of the Constitution of the State of Nevada, the takings clause of the  
7 Fifth Amendment of the United States Constitution, and without complying with the procedures  
8 set forth in Chapter 37 of the Nevada Revised Statutes (which a government entity is required  
9 by law to follow before taking private property for public use).

10       40. Washoe County has taken the Plaintiff's property for public use.

11       41. Storm waters from the drainage system on Lancer Estates and Monte Rosa in  
12 Whites Creek No. 4 has actually invaded the Plaintiff's Property by superinduced additions of  
13 water so as to effectually destroy or impair its usefulness. *Pumpelly v. Green Bay Company*, 80  
14 U.S. (13 Wall.) 166, 181 (1871).

15       42. The Plaintiff's Property is subjected to intermittent-but-inevitable flooding from  
16 waters from Lancer Estates and Monte Rosa, which causes substantial injury and damages to the  
17 Property. *United States v. Cress*, 243 U.S. 316, 328 (1917).

18       43. The continuing flooding on the Plaintiff's Property caused by the development of  
19 Lancer Estates and Monte Rosa, and other activities of Washoe County constitutes a permanent  
20 physical invasion of the Property. *McCarran Int'l Airport v. Sisolak*, 122 Nev. 645, 662 (Nev.  
21 2006).

22       44. The Plaintiff has suffered damages as a result of the taking of their Property by  
23 Washoe County.

24       45. Plaintiff has been required to seek professional engineering and legal services to  
25 prosecute this action, and, accordingly, each is entitled to recover their reasonable attorney fees  
26 together with other costs incurred therefor.

27       WHEREFORE, Plaintiffs pray for judgment against the Defendants as follows:

- 28       a. For the taking of the Plaintiff's Property as described herein, damages in an amount  
in excess of \$10,000;  
b. For reasonable attorneys' fees and costs per NRS 37.185;  
c. For compensatory damages as permitted by law;  
d. For consequential damages as permitted by law;



- 1 e. For statutory damages as permitted by law;  
2 f. For interest as permitted by law;  
3 g. For such other relief as is just and proper

4 **NRS 239B.030(4) AFFIRMATION**

5 Pursuant to NRS 239B.030 as well as Rule 10 of the Washoe District Court Rules, the  
6 undersigned hereby affirms that this document does not contain the social security number of  
7 any person.

8 Respectfully submitted this Monday, May 12, 2014.

9 By: 

10 Luke Busby  
11 Nevada State Bar No. 10319  
12 543 Plumas St.  
13 Reno, NV 89501  
14 775-453-0112  
15 luke@lukeandrewbusbyltd.com  
16 *Attorney for John and Melissa Fritz*  
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**VERIFICATION**

STATE OF NEVADA     )  
                                  )ss:  
COUNTY OF WASHOE    )


John Fritz, being first duly sworn, deposes and says:

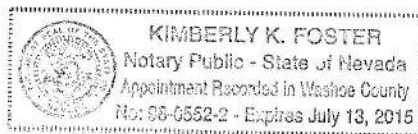
That he is the Plaintiff in the forgoing action. That he has read the foregoing THIRD AMENDED VERIFIED COMPLAINT and knows the contents thereof. That the contents of the THIRD AMENDED VERIFIED COMPLAINT are true and correct to the best of his knowledge, information and belief, and as to those matters he believes them to be true.

  
\_\_\_\_\_  
John Fritz

Subscribed and sworn to before me

This 12<sup>th</sup> day of May, 2014, by xx John Matthew Fritz. xx

  
\_\_\_\_\_  
NOTARY PUBLIC in and for  
said County and State






**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served the foregoing document upon the following parties  
by electronic service to:

Washoe County DA's Office  
Attn: Terrence Shea, Esq.  
Washoe County District Attorney Civil Div.  
P.O. Box 11130  
Reno, NV 89520

Respectfully submitted this Monday, May 12, 2014.

  
\_\_\_\_\_  
Luke Busby



**Exhibit List**

Exhibit 1. Deed transferring ownership of property incl. legal description

Exhibit 2. Pertinent parts of Cella Bar Study.



# Exhibit 1

# Exhibit 1



A. P. No. 049-371-62

No. 00113970-KJS

When recorded mail to:  
John Fritz  
P.O. Box 70596  
Reno, NV 89570

Mail tax statements to:  
John Fritz  
P.O. Box 70596  
Reno, NV 89570

DEED

THIS INDENTURE WITNESSETH: That JOHN A. DU PUY and DORA V. DU PUY, husband and wife, in consideration of the sum of Ten Dollars <sup>AND OTHER VALUABLE CONSIDERATION</sup> (\$10.00), the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and convey to JOHN FRITZ and MELISSA FRITZ, husband and wife, as joint tenants with right of survivorship, whose address is: P.O. Box 70596, Reno, NV 89570, all that real property situate in the County of Washoe, State of Nevada, described as follows:

TOWNSHIP 18 NORTH, RANGE 20 EAST:

Section 30: Lot 129.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

DATED Aug 16, 2001.

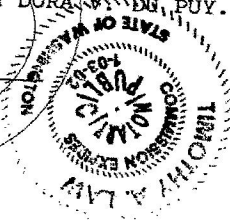
John A. DuPuy  
John A. DuPuy

Dora V. DuPuy  
Dora V. DuPuy

STATE OF WA )  
COUNTY OF KING ) ss

This instrument was acknowledged before me on August 16, 2001, by JOHN A. DU PUY and DORA V. DU PUY.

[Signature]  
Notary Public



DOC # 2589425  
08/24/2001 04:09P Fee:7.00  
BK1  
Requested By  
WESTERN TITLE INCORPORATED  
Washoe County Recorder  
Kathryn L. Burke - Recorder  
Pg 1 of 1 RPT 120.00



LAW OFFICES OF  
OTTO & POPE  
164 HUBBARD WAY  
SUITE A  
RENO, NEVADA 89502



## **Exhibit 2**

## **Exhibit 2**



# PRELIMINARY WHITES CREEK BASIN MANAGEMENT STUDY

(FINAL REPORT)

Prepared For:

WASHOE  
COUNTY



DEPARTMENT  
OF  
PUBLIC WORKS

By:



CELLA BARR  
ASSOCIATES

777 Campus Commons Road, Suite 200  
Sacramento, California 95825

August 17, 1994

CBA File No. 530013-01



to the HEC-1 model presented in the Whites Creek Detention Feasibility Study for NDOT. Since the standard for floodplain management in Washoe County and per FEMA is the 100-year event, floodplain conditions along each of the four (4) flow paths downstream of Shadowridge Park need to be established under the assumption that 3000 cfs is initially delivered to them. Until such time as structural measures are implemented that will serve to establish the flow distribution desired for 5100 cfs at Shadowridge Park, a flow of 3000 cfs being delivered to each flow path must be considered in the design of development projects within the lower Whites Creek watershed.

**C. Existing Problem Areas** - As a part of the field investigations performed by CBA staff and the review of available information, several problem areas or potential problem areas were identified within the lower Whites Creek watershed in terms of flooding potential associated with development projects and existing infrastructure improvements. The following listing represents a preliminary identification of potential problem locations that may merit further investigation as a part of future studies. It must be noted that CBA's conclusions are not substantiated by detailed calculations, but have been based upon engineering judgement; hence, the following listing may not be complete and/or some of the listed locations may be determined to not have problems from a flood hazard or capacity perspective upon closer, more detailed examination.

1. **Existing Culverts Along U.S. 395** - All of the existing drainage structures that drain Whites Creek flows are substantially inadequate to convey distributed discharges underneath the roadway during a 100-year flood event. The existing highway will cause upstream ponding of stormwater runoff and, when ponded flood waters reach sufficient levels, sheet flooding across the highway will occur.
2. **Old Virginia Street Culverts** - Inadequate drainage structures exist across Old Virginia Street, and similar conditions will prevail as described for U.S. 395.
3. **Zolezzi Lane Drainage Structures** - The drainage structure crossing of Zolezzi Lane that serves Channel #1 is of substantially insufficient capacity to pass the proportioned 100-year discharge. The existing roadway will divert some of the flow east along the south side of Zolezzi Lane and some of the flow will spill northerly across the roadway. At the intersection of Zolezzi Lane and U.S. 395, there is virtually no provision for accommodating runoff originating from Channel #2 (with some spillover flow from Channel #3), and flooding of this intersection will occur during a 100-year event.
4. **Existing Residential Structures Immediately Downstream of the Defined Channel at Shadowridge Park** - Several existing residential structures at this location are subject to a high flood and debris flow hazard during a 100-year flood event.



5. **Whites Creek Estates** - Some of the existing residential structures adjacent to Channel #1 have a potential for flooding during a 100-year event as induced by spillover from the channel at subdivision street crossings or by limitations in channel capacity.
6. **Lancers Estate** - Some of the residential lots backing up adjacent to the south of Channel #4 have a potential for flooding during a 100-year event.
7. **Existing Residential Structures South of Whites Creek Lane, West of the Proposed Pine Tree Ranch Subdivision** - Several of these structures have a potential for flooding from Channels #2 and #3 during a 100-year flooding event.
8. **Wedge Parkway** - Wedge Parkway is elevated from one to several feet above existing grade and crosses the lower Whites Creek watershed somewhat transversely to the direction of drainage flow. The newly constructed segment of Wedge Parkway between the Mt. Rose Highway and Whites Creek Lane will have a tendency to impound runoff in excess of the proportioned discharge of 1350 cfs for Channel #4 on the upstream side of the roadway and divert flow northeasterly along the west side of the roadway toward Whites Creek Lane. The existing drainage structure under construction across Channel #4 appears to have adequate capacity for the proportioned discharge for this flow path, provided the flow is delivered to the drainage structure itself. Currently, it is proposed that the proportioned flow within Channel #4 be channelized and delivered to the drainage structure as a part of the future development of Sterling Ranch.

**It should be reiterated that the above observations and conclusions of system capacity problems are based upon preliminary investigations, only, and will require further substantiation as additional more detailed studies are performed.**



**FILED**

Electronically

07-15-2013:01:35:39 PM

J. Newland Hastings

Clerk of the Court

Transaction # 3854180

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
FOR THE COUNTY OF WASHOE**

JOHN AND MELISSA FRITZ

Plaintiff,

Case No: CV13-00756

vs.

Dept. No: 1

WASHOE COUNTY, ET AL

Defendant

**Affidavit of Service**STATE OF NEVADA  
COUNTY OF WASHOE

ss.:



**ALLAN POUNDS**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States over 18 years of age, not a party to nor interested in the proceedings in which this affidavit is made.

That affiant received copy(ies) of the SUMMONS; AMENDED VERIFIED COMPLAINT FOR INVERSE CONDEMNATION on 07/12/2013 and served the same on 07/12/2013 at 12:16 AM by delivery and leaving a copy with:

**ANDREA TABENER, PROGRAM ASSISTANT**, a person of suitable age and discretion residing at **COMMISSIONER HUMKE ON BEHALF OF WASHOE COUNTY's** usual place of abode.

Served on behalf of **COMMISSIONER HUMKE ON BEHALF OF WASHOE COUNTY**, at **COMMISSIONER HUMKE ON BEHALF OF WASHOE COUNTY's** residence:

Service address: 1001 E. 9TH ST. SUITE A201, RENO, NV 89512

A description of **ANDREA TABENER** is as follows:

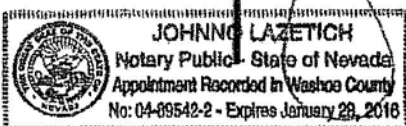
Sex	Color of skin/race	Color of hair	Age	Height	Weight
Female	White	Brown	46	5'7"	170
Other Features:					

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Sworn to and subscribed before me on  
07/12/2013  
by **ALLAN POUNDS**

X *Allan Pounds*  
**ALLAN POUNDS**  
Registration#: R-061232  
Reno/Carson Messenger Service, Inc. (Lic# 322)  
185 Martin Street  
Reno, NV 89509  
775.322.2424  
Atty File#: FRITZ

Notary Public



\*33988\*



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Respectfully submitted this 15<sup>th</sup> day of June 2013.

Luke Andrew Busby  
Nevada State Bar No. 10319  
543 Plumas St.  
Reno, NV 89501  
775-453-0112  
[luke@lukeandrewbusby.com](mailto:luke@lukeandrewbusby.com)  
[www.lukeandrewbusbyltd.com](http://www.lukeandrewbusbyltd.com)



1 CODE 1140  
2 E. TERRANCE SHEA  
3 Deputy District Attorney  
4 Nevada State Bar No. 29  
5 P.O. Box 11130  
6 Reno, NV 89520  
7 (775)337-5700

8 ATTORNEY FOR WASHOE COUNTY

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

10 IN AND FOR THE COUNTY OF WASHOE

11 \*\*\*

12 JOHN AND MELISSA FRITZ

13 Plaintiffs,

14 vs.

Case No. CV13-00756

15 WASHOE COUNTY,

Dept. No. 1

16 Defendants.  
17 \_\_\_\_\_/

18 ANSWER TO THIRD AMENDED VERIFIED COMPLAINT

19 COMES NOW WASHOE COUNTY, by and through its attorneys of  
20 record Richard A. Gammick, Washoe County District Attorney, and  
21 E. Terrance Shea, Deputy District Attorney, and hereby files its  
22 Answer to the third Amended Verified Complaint.

23 1. Washoe County is without information sufficient to  
24 form a belief as to the truth of the allegations in paragraph  
25 number 1.

26 2. Washoe County admits the allegations contained in  
paragraph number 2.

3. The allegations in paragraph number 3 are of such a  
nature that no response is required by this defendant. However,



1 to the extent this Court requires a response from the defendant,  
2 the allegations are denied.

3 4. The allegations in paragraph number 4 are of such a  
4 nature that no response is required by this defendant. However,  
5 to the extent this Court requires a response from the defendant,  
6 the allegations are denied.

7 5. Washoe County admits the allegations contained in  
8 paragraph number 5. Washoe County is authorized by NRS Chapter  
9 37 to exercise the power of eminent domain.

10 6. Washoe County admits the allegations contained in  
11 paragraph number 6.

12 7. Washoe County denies the allegations contained in  
13 paragraph number 7.

14 8. Washoe County denies the allegations contained in  
15 paragraph number 8.

16 9. Washoe County denies the allegations contained in  
17 paragraph number 9.

18 10. Washoe County denies the allegations contained in  
19 paragraph number 10.

20 11. Washoe County denies the allegations contained in  
21 paragraph number 11.

22 12. Washoe County denies the allegations contained in  
23 paragraph number 12.

24 13. Washoe County denies the allegations contained in  
25 paragraph number 13.

26 //



1        14. Washoe County denies the allegations contained in  
2 paragraph number 14.

3        15. Washoe County denies the allegations contained in  
4 paragraph number 15.

5        16. Washoe County denies the allegations contained in  
6 paragraph number 16.

7        17. Washoe County denies the allegations contained in  
8 paragraph number 17.

9        18. The allegations contained in paragraph number 18 refer  
10 to hearsay material which may or may not be relevant to this  
11 case and may or may not be evidence. These quoted references do  
12 not require a response from this defendant. However, to the  
13 extent this honorable Court requires this defendant to respond,  
14 the allegations are denied.

15       19. The allegations contained in paragraph number 19 refer  
16 to hearsay material which may or may not be relevant to this  
17 case and may or may not be evidence. These quoted references do  
18 not require a response from this defendant. However, to the  
19 extent this honorable Court requires this defendant to respond,  
20 the allegations are denied.

21       20. The allegations contained in paragraph 20 refer to  
22 hearsay material which may or may not be relevant to this case  
23 and may or may not be evidence. These quoted references do not  
24 require a response from this defendant. However, to the extent  
25 this Honorable Court requires this defendant to respond, the  
26 allegations are denied.



1       21. Washoe County denies the allegations contained in  
2 paragraph number 21.

3       22. Washoe County denies the allegations contained in  
4 paragraph number 22.

5       23. Washoe County denies the allegations contained in  
6 paragraph number 23.

7       24. Washoe County denies the allegations contained in  
8 paragraph number 24.

9       25. Washoe County denies the allegations contained in  
10 paragraph number 25.

11       26. Washoe County denies the allegations contained in  
12 paragraph number 26.

13       27. The allegations in paragraph number 27 are of such a  
14 nature that no response is required by this defendant. However,  
15 to the extent this Court requires a response from the defendant,  
16 the allegations are denied.

17       28. Washoe County denies the allegations contained in  
18 paragraph number 28.

19       29. Washoe County denies the allegations contained in  
20 paragraph number 29.

21       30. Washoe County denies the allegations contained in  
22 paragraph number 30.

23       31. Washoe County denies the allegations contained in  
24 paragraph number 31.

25       32. Washoe County denies the allegations contained in  
26 paragraph number 32.



1        33. Washoe County denies the allegations contained in  
2 paragraph number 33.

3        34. Washoe County denies the allegations contained in  
4 paragraph number 34.

5        35. Washoe County denies the allegations contained in  
6 paragraph number 35.

7        36. Washoe County denies the allegations contained in  
8 paragraph number 36.

9        37. Washoe County realleges its response to the foregoing  
10 paragraphs as if those responses were fully set forth herein.

11       38. Washoe County denies the allegations contained in  
12 paragraph number 38.

13       39. Washoe County denies the allegations contained in  
14 paragraph number 39.

15       40. Washoe County denies the allegations contained in  
16 paragraph number 40.

17       41. Washoe County denies the allegations contained in  
18 paragraph number 41.

19       42. Washoe County denies the allegations contained in  
20 paragraph number 42.

21       43. Washoe County denies the allegations contained in  
22 paragraph number 43.

23       44. Washoe County denies the allegations contained in  
24 paragraph number 44.

25       45. Washoe County denies the allegations contained in  
26 paragraph number 45.



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2. The actions of Washoe County as alleged, do not constitute a taking.

4. Plaintiffs' Third Amended Verified Complaint fails to state a claim upon which relief may be granted.

6. The Plaintiffs have sustained no damage.

8. The lawsuit filed by the Plaintiffs must be dismissed because of a lack of indispensable parties.

10. The allegations of the Third Amended Verified Complaint should be dismissed because the claims lack ripeness.

1. That Plaintiffs take nothing by way of the complaint;  
and

//



1           3.     That the Court allow Defendant's costs and a  
2 reasonable attorney's fee as allowed by law; and

3           4.     That the Court grant Defendant such additional or  
4 alternate relief as it deems just and proper.

5  
6                   AFFIRMATION PURSUANT TO NRS 239B.030

7           The undersigned does hereby affirm that the preceding  
8 document does not contain the social security number of any  
9 person.

10          Dated this 22nd day of May, 2014.

11                               RICHARD A. GAMMICK  
12                               District Attorney

13                               By: E. Terrance Shea  
14                                   E. TERRANCE SHEA  
15                                   Deputy District Attorney  
16                                   P.O. Box 11130  
17                                   Reno, NV 89520  
18                                   (775) 337-5700

19                               ATTORNEYS FOR WASHOE COUNTY  
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LUKE BUSBY, ESQ. for JOHN FRITZ et al

/s/ Lydia Massenkoff  
L. Massenkoff



2200  
MICHAEL LARGE  
Deputy District Attorney  
Nevada State Bar 10119  
P.O. Box 11130  
Reno, NV 89520-0027  
(775) 337-5700

ATTORNEY FOR WASHOE COUNTY

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
**IN AND FOR THE COUNTY OF WASHOE**

\* \* \*

JOHN AND MELISSA FRITZ,

Plaintiffs,

vs.

Case No. CV13-00756

WASHOE COUNTY,

Dept. No. 1

Defendant.

**DEFENDANT WASHOE COUNTY'S MOTION FOR SUMMARY JUDGMENT**

Defendant WASHOE COUNTY, by and through its attorneys of record, Christopher J. Hicks, Washoe County District Attorney, and Michael W. Large, Deputy District Attorney, hereby moves for summary judgment. This Motion is based upon the following Memorandum of Points and Authorities and upon all other documents, papers, and pleadings on file with this Court.

Dated this 2nd day of February, 2015.

CHRISTOPHER J. HICKS  
District Attorney

By /s/ Michael W. Large  
MICHAEL W. LARGE  
Deputy District Attorney  
P.O. Box 11130  
Reno, NV 89520-0027  
(775) 337-5700

ATTORNEYS FOR WASHOE COUNTY



1 **MEMORADUM OF POINTS AND AUTHORITIES**

2 Plaintiffs John and Melissa Fritz (hereinafter “Plaintiffs”) filed the present suit against  
3 Defendant Washoe County (“Washoe County”) asserting claims for nuisance, trespass, and  
4 inverse condemnation. Plaintiffs assert that their property has been damaged by the excessive  
5 drainage of water as a result of nearby property developments. After an extensive procedural  
6 history, the sole remaining claim against Washoe County is for inverse condemnation. Under  
7 Nevada law and the undisputed facts of this case, Plaintiffs’ inverse condemnation claim must  
8 be dismissed because no genuine issue of material fact exists and Defendant Washoe County is  
9 entitled to summary judgment.

10 **I. BACKGROUND**

11 **A. Procedural History**

12 In 2001, Plaintiffs purchased a piece of property (“hereinafter the “Parcel”) and recorded  
13 a grant deed on the Parcel with the Washoe County Recorder on August 24, 2001. (Ex.  
14 1)(Grant Deed).<sup>1</sup> The Parcel is located at 14400 Bihler Road, Washoe County. Shortly after  
15 their purchase, Plaintiffs obtained permits from Washoe County to build a house and garage on  
16 the Parcel. In 2002, Plaintiffs built a second garage on the Parcel.

17 Over a decade later, on April 4, 2013, Plaintiffs initiated the present suit alleging causes  
18 of action for trespass, nuisance, and inverse condemnation against Washoe County. Throughout  
19 the course of this litigation, Plaintiffs have filed three amended complaints and added multiple

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26 <sup>1</sup> The property was originally owned by John and Dora Du Puy, who took ownership of the land by way of a United States patent in 1961.



1 parties. The bulk of these claims and parties has been dismissed by this Court or were  
2 voluntarily dismissed by Plaintiffs.<sup>2</sup>

3 On December 16, 2013, Washoe County filed a Motion to Dismiss the Second Amended  
4 Complaint for Failure to State a Claim pursuant to NRCP 12(b)(5) which the Plaintiff opposed.  
5 On February 11, 2014, the Court held a hearing on many of the outstanding motions in the case.  
6 On March 18, 2014, the Court granted in part and denied in part Washoe County's Motion to  
7 Dismiss. The Court granted Washoe County's Motion as to the nuisance and trespass claims  
8 but denied Washoe County's Motion as to Plaintiffs' claim for inverse condemnation.

9 On January 23, 2014, Plaintiffs filed a request for leave to file a Third Amended  
10 Complaint in order to respond to issues raised by Washoe County's Motion to Dismiss. On May  
11 8, 2014, this Court granted Plaintiffs' Motion to file a Third Amended Complaint. On May 12,  
12 2014, Plaintiffs filed a Third Amended Complaint asserting a claim for inverse condemnation  
13 against Washoe County. On May 22, 2014, Washoe County filed an Answer to the Third  
14

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15 <sup>2</sup> On June 7, 2013, Plaintiffs filed an Amended Complaint. On November 1, 2013, Plaintiff filed a Second  
16 Amended Complaint pursuant to a stipulation. On November 6, 2013, Plaintiff filed a Notice of Partial Voluntary  
17 Dismissal, dismissing Defendant FPE Engineering and Planning, and Nicholas S. Vestbie, Ltd., dba Nortech  
18 Geotechnical/Consultants, Ltd., from the action. On December 3, 2013, Wood Rogers, Inc. ("Wood Rogers"), and  
19 CFA, Inc. ("CFA") filed a Motion to Dismiss the Second Amended Complaint for Failure to Comply with NRS  
20 11.258, but withdrew the motion on December 18, 2013.

21 On January 8, 2014, Wood Rogers and CFA filed a Motion for a More Definite Statement. On January  
22 14, 2014, Plaintiffs filed a Non-Opposition to Motion for More Definite Statement. On January 27, 2014, Washoe  
23 County filed a Partial Opposition to Defendant Wood Roger Motion for a More Definite Statement. On January 29,  
24 2014, Wood Rogers replied and submitted the matter for decision. However, during the February 11, 2014 hearing,  
25 counsel for Wood Rogers made an oral motion to withdraw its Motion for a More Definite Statement, which the  
26 Court granted. The Court entered an order holding that the Motion for a More Definite Statement was moot on  
February 12, 2014. On February 25, 2014, CFA filed a Stipulation and Order to Dismiss with Prejudice Defendant  
CFA, Inc., which the Court granted.

On January 24, 2014, Defendant Walsh Odyssey Engineering, Ltd. ("Odyssey") filed a Motion to Dismiss  
the Second Amended Complaint. On January 27, 2014, Plaintiffs filed an Opposition to Motion to Dismiss of  
Odyssey Engineering. On February 7, 2014, Odyssey filed its Reply in Support of its Motion to Dismiss the  
Second Amended Complaint and submitted the matter for decision. During the February 11, 2014, hearing, the  
Court orally granted Odysseys' Motion to Dismiss the Second Amended Complaint on statute of limitations  
grounds. On February 20, 2014, the Court entered an Order Granting Odyssey's Motion to Dismiss.

On February 7, 2014, Defendant Pacific West Building, Inc. ("Pacific West") filed a Motion to Dismiss. On  
February 25, 2014, Pacific West filed a Stipulation for Dismissal with Prejudice which the Court granted. On  
February 7, 2014, Defendant Barneson Investments, Inc. filed a Motion to Dismiss. On February 20, 2014,  
Plaintiffs filed a Stipulation for Dismissal with Prejudice which the Court granted. On February 21, 2014,  
Plaintiffs filed a Notice of Partial Voluntary Dismissal, voluntarily dismissing Defendants McMillian Construction  
Company, and Lots, Inc.



1 Amended Complaint. Despite the long procedural history as reflected above and in footnote 2,  
2 the sole remaining claim against Washoe County is for inverse condemnation.

3 **B. Allegations against Washoe County**

4 In the Third Amended Complaint, Plaintiffs asserted specific actions taken by Washoe  
5 County that they believe caused the constitutional taking of their property through inverse  
6 condemnation. Plaintiffs allege:

7 14. On or about November 29, 1984, Washoe County accepted dedication of the  
8 curbs, gutters, and storm drains in Lancer Estates Unit 2 by approving the final  
9 map for Lancer Estates Unit 2 or by later accepting dedication of said facilities  
10 and such facilities drain water from Lancer Estates to the Plaintiff's Property.

11 15. On or about April 1, 1991, Washoe County accepted dedication of the curbs,  
12 gutters, and storm drains in Lancer Estates Unit 3 by approving the final map for  
13 Lancer Estates Unit 3 or by later accepting dedication of said facilities which  
14 drain water from Lancer Estates to the Plaintiffs Property.

15 16. On or about June 26, 1992, Washoe County accepted dedication of the curbs,  
16 gutters, and storm drains in Lancer Estates Unit 4 by approving the final map for  
17 Lancer Estates Unit 4 or by later accepting dedication of said facilities which  
18 drain water from Lancer Estates to the Plaintiff's Property.

19 17. On or about May 23, 1993, Washoe County accepted dedication of the curbs,  
20 gutters, and storm drains in Lancer Estates Unit 5 by approving the final map for  
21 Lancer Estates Unit 5 or by later accepting dedication of said facilities which  
22 drain water from Lancer Estates to the Plaintiff's Property.

23 18. In April of 1994, Washoe County accepted a Preliminary Whites Creek Basin  
24 Management Study ("Cella Bar Study") prepared by Cella Bar Associates, which  
25 had been commissioned by Washoe County to study the hydrology of the Whites  
26 Creek area.

19 19. The Cella Bar Study indicates on page 15 that "Existing Problem Areas"  
20 include "Some of the residential lots backing up adjacent to the south of Whites  
21 Creek 1 Channel No.4 have potential for flooding during a 100-year event."

22 20. The Plaintiff's Property is located in the area identified as a problem area in  
the Cella Bar Study.

23 21. On or about May 17, 1994, Washoe County accepted dedication of the curbs,  
24 gutters, and storm drains in Lancer Estates Unit 6 by approving the final map for  
25 Lancer Estates Unit 6 or by later accepting dedication of said facilities which  
26 drain water from Lancer Estates to the Plaintiffs' Property.

22 22. On or about September 20, 1994, Washoe County accepted dedication of the  
curbs, gutters, and storm drains in Lancer Estates Unit 7 by approving the final



map for Lancer Estates Unit 7 or by later accepting dedication of said facilities which drain water from Lancer Estates to the Plaintiffs' Property.

23. On or about June 20, 1995, Washoe County accepted dedication of the curbs, gutters, and storm drains in Lancer Estates Unit 8 by approving the final map for Lancer Estates Unit 8 or by later accepting dedication of said facilities which drain water from Lancer Estates to the Plaintiffs Property.

24. On or about July 30, 1999, Washoe County accepted dedication of the curbs, gutters, and storm drains in Lancer Estates Unit 10 by approving the final map for Lancer Estates Unit 10 or by later accepting dedication of said facilities which drain water from Lancer Estates to the Plaintiffs' Property.

25. On or about December 13, 2005, Washoe County accepted dedication of certain storm drains and/or detention ponds in Monte Rosa Unit 1 by approving the final map for Monte Rosa Unit 1 or by later accepting dedication of said facilities which drain water from Monte Rosa to the Plaintiffs' Property.

26. On or about November 21, 2007, Washoe County accepted dedication of certain storm drains and/or detention ponds in Monte Rosa Unit 2 by approving the final map for Monte Rosa Unit 2 or by later accepting dedication of said facilities which drain water from Monte Rosa to the Plaintiffs Property.

(Third Amended Complaint at ¶¶14-26).

## **II. LEGAL ARGUMENT**

### **A. Introduction**

Plaintiffs allege that Washoe County has committed a "taking" of their real property in violation of the Nevada and Federal Constitutions through inverse condemnation. The Nevada Constitution states that, "Private property shall not be taken for public use without just compensation having been first made or secured." Nev. Const. art. 1, s. 8; *see Tacchino v. State Dept. of Highways*, 89 Nev. 150, 508 P.2d 1212 (1973). "To support a takings claim, an individual must possess a valid interest in the property affected by the governmental action." *ASAP Storage, Inc. v. City of Sparks*, 123 Nev. 639, 647, 173 P.3d 734, 740 (2007).

Plaintiffs assert that Washoe County has taken their property through "substantial involvement" in the development of nearby properties, which has caused storm waters to flood Plaintiffs' property and thereby destroyed or impaired its usefulness. (*See Third Amended Complaint at ¶¶43-47*). Plaintiffs' allege that Washoe County has affected their property in two



1 ways: (1) by approving the final maps for Monte Rosa and Lancer Estates; and (2) by accepting  
2 the dedications of drain water facilities from Monte Rosa and Lancer Estates. (Third Amended  
3 Complaint¶¶14-26).

4 Plaintiffs' inverse condemnation claim fails for multiple reasons. First, Plaintiffs lack  
5 standing to assert a claim against Washoe County for any alleged action that occurred or  
6 affected the property prior to their ownership in 2001. Second, Washoe County never accepted  
7 the dedications of drain water facilities as asserted in the Third Amended Complaint. Third,  
8 Washoe County's approval of a final map for the developments does not create municipal  
9 liability for inverse condemnation. Finally, Plaintiffs have failed to provide any evidence that a  
10 "taking" has actually occurred or that they have been "substantially injured" by the actions of  
11 Washoe County.

#### 12 **B. Standard for Summary Judgment**

13 NRCP 56 provides that summary judgment "shall be rendered forthwith" if the evidence  
14 demonstrates that there is no genuine issue as to any material fact and that the moving party is  
15 entitled to judgment as a matter of law. NRCP 56; *Butler v. Bogdanovich*, 101 Nev. 449, 705  
16 P.2d 662 (1985). A genuine issue of material fact exists where the evidence is such that a  
17 reasonable jury could return a verdict for the non-moving party. *Posadas v. City of Reno*, 109  
18 Nev. 448, 851 P.2d 483 (1993); *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005).

19 The moving party has the burden of establishing the non-existence of any genuine issue  
20 of material fact. *Pacific Pools Construction Co. v. McClain's Concrete, Inc.*, 101 Nev. 557,  
21 706 P.2d 849 (1985). The burden is discharged by demonstrating there is an absence of  
22 evidence supporting one or more of the prima facie elements of the non-moving party's case.  
23 *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). The non-  
24 moving party must then, by affidavit or otherwise, set forth specific facts demonstrating the  
25 existence of a genuine issue for trial or have summary judgment entered against it. *Collins v.*  
26 *Union Federal Savings & Loan Association*, 99 Nev. 284, 662 P.2d 610 (1983). Conclusory



1 statements along with general allegations do not create an issue of material fact. *Michaels v.*  
2 *Sudeck*, 107 Nev. 332, 810 P.2d 1212 (1991). Questions of law may be determined on motion  
3 for summary judgment. *Insurance Corp. Of America v. Rubin*, 107 Nev. 610, 818 P.2d 389  
4 (1991).

5 In order to establish entitlement to judgment as a matter of law, a moving defendant may  
6 show that one of the elements of the plaintiff's prima facie case is "clearly lacking as a matter of  
7 law." *Sims v. General Telephone & Electric*, 107 Nev. 516, 521, 815 P.2d 151, 154 (1991),  
8 *overruled on other grounds by Tucker v. Action Equipment and Scaffold Co., Inc.*, 113 Nev.  
9 1349, 951 P.2d 1027 (1997).

### 10 C. Analysis

#### 11 1. Plaintiffs lack standing to bring an inverse condemnation claim against 12 Washoe County for any action affecting the property that occurred prior to Plaintiff's purchase of the property in 2001.

13 Plaintiffs lack standing to bring a claim for inverse condemnation against Washoe  
14 County for any action that occurred prior to 2001. From the outset of this dispute, Plaintiffs  
15 have made nebulous assertions that Washoe County has acted in some manner that has caused  
16 flooding to occur on their property and that these actions constitute a taking by inverse  
17 condemnation.

18 Under Nevada law, it is well established that takings claims lie *only* with the party who  
19 owned the property at the time the taking occurred. *See Argier v. Nevada Power Co.*, 114 Nev.  
20 137, 139, 952 P.2d 1390, 1391 (1998)(emphasis added). Subsequent owners of a parcel of  
21 property lack standing to assert a claim for a taking by inverse condemnation for actions that  
22 occurred prior to their ownership.

23 In *Argier*, the Nevada Supreme Court held that a claim for just compensation for the  
24 taking of property does not run with the land, but remains a personal claim of the person who  
25 was the owner at the time of the taking. *Id.* The Nevada Supreme Court stated that:

26 If a parcel of land is sold after a portion of it has been taken or after it has been  
injuriously affected by the construction of some authorized public work, the right



1 to compensation, constitutional or statutory, does not run with the land but  
2 remains a personal claim in the hands of the vendor, unless it has been assigned  
by special assignment or by a provision in the deed ....

3 *Id.* at 138-39, 952 P.2d at 1391 (quoting 3 Julius Sackman, Nichols on Eminent Domain § 5.02  
4 [3] (1997)). The Supreme Court explained that when “the government interferes with a person's  
5 possession of his/her property, the owner loses an interest in that property.” *Id.* at 140, 952 P.2d  
6 at 1392. “The award of just compensation is a substitute for that lost interest in the property.  
7 When the owner sells what remains of her property, she does not also sell the right to  
8 compensation. If she did, the original owner would suffer a loss and the purchaser would  
9 receive a windfall.” *Id.* This holding is consistent with other jurisdictions which have  
10 considered this issue. *See, e.g., Toles v. United States*, 371 F.2d 784 (10th Cir.1967); *Enke v.*  
11 *City of Greeley*, 31 *Colo.App.* 337, 504 P.2d 1112 (1972); *Majestic Heights Co. v. Board of*  
12 *County Comm'rs.*, 173 *Colo.* 178, 476 P.2d 745 (1970); *City of Albuquerque v. Chapman*, 77  
13 *N.M.* 86, 419 P.2d 460 (1960).

14 It is undisputed that Plaintiffs purchased the subject parcel in 2001. (Ex. 1)(Grant Deed:  
15 Document No. 2589425, recorded on August 24, 2001). Moreover, the vast majority of the  
16 Washoe County's actions asserted in the Third Amended Complaint, occurred prior to  
17 Plaintiffs' ownership of the Parcel. Attached as Exhibits 2 through 12, are the final map  
18 approvals for each of the eleven phases of the Lancer Estates subdivision. Each exhibit reflects  
19 the date upon which the Washoe County Board of County Commissioners took action to  
20 approve those particular phases.

21 The evidence shows that the tentative subdivision map for phase 1 and 2 was approved  
22 by the Board of County Commissioners on June 12, 1984, the tentative subdivision map for  
23 phase 3 was approved by the Board of County Commissioners on November 27, 1990 and the  
24 amended tentative subdivision map for the remaining phases, 4 through 11 was approved by the  
25 Board of County Commission on December 17, 1991. (*Id.*). Based on these dates of approval,  
26 the claims now filed in the Third Amended Complaint occurred prior to Plaintiffs' purchase of



1 the Parcel in 2001. Accordingly, under Nevada law, Plaintiffs lack standing for any claim for a  
2 “taking” based upon Washoe County’s actions prior to 2001. Therefore, no issue material fact  
3 exists and Plaintiffs claim for inverse condemnation based on these actions must be dismissed  
4 as a matter of law.

5 **2. Washoe County did not accept the “storm drains and/or detention**  
6 **ponds” in the Monte Rosa subdivision.**

7 Plaintiffs assert two actions by Washoe County that occurred after they purchased the  
8 property in 2001. These allegations are:

9 25. On or about December 13, 2005, Washoe County accepted dedication of  
10 certain storm drains and/or detention pond in Monte Rosa 1 by approving the  
11 final map for Monte Rosa Unit 1 or by later accepting dedication of said facilities  
which drain water from Monte Rosa to the Plaintiff’s Property.

12 26. On or about November 21, 2007, Washoe County accepted dedication of  
13 certain storm drains and/or detention ponds in Monte Rosa Unit 2 by approving  
the final map for Monte Rosa 2 or by later accepting dedication of said facilities  
which drain water from Monte Rosa to the Plaintiff’s Property.

14 These allegations are factually incorrect and also do not give rise to a claim of inverse  
15 condemnation.

16 Monte Rosa Unit 1’s Final Map provides, in relevant part:

17 This Final Map is approved for recordation this 13th day of December 2005 by  
18 the Washoe County Community Development Director. *The offer of dedication*  
19 *for streets, avenues, drives, courts and highways and sewer facilities and water*  
*facilities is rejected at this time*, but will remain open in accordance with NRS  
Chapter 278.

20 Exhibit 13(emphasis added). Similarly, Monte Rosa Unit 2’s final map provides:

21 This Final Map is approved and accepted for recordation this 21st day of  
22 November 2007 by the Washoe County Community Development Director. *The*  
*offer of dedication for Parcel A and sewer facilities and water facilities and the*  
23 *public turnaround at the end of Aspen Hollow is rejected at this time* but will  
remain open in accordance with NRS Chapter 278.

24 Exhibit 14 (emphasis added).

25 The plain language of the Monte Rosa final maps specifically disproves Plaintiffs’  
26 factual allegations that Washoe County accepted the dedication of any of the facilities. The



1 plain language of the final maps specifically *rejects* the dedications that Plaintiffs assert caused  
2 flood damage to their property.<sup>3</sup> Accordingly, there is no issue of material fact as to these  
3 allegations and summary judgment on these claims is appropriate as a matter of law.

4 **3. Approval of a Final Map Does Not Create Municipal Liability for a**  
5 **Taking by Inverse Condemnation**

6 Plaintiffs have not alleged that Washoe County has taken any direct action that would  
7 establish a causal connection to the damage of Plaintiffs' property. Plaintiffs have not alleged  
8 that Washoe County substantially participated in the planning, approval, construction, or  
9 operation of a public project or improvement which proximately caused injury to Plaintiff's  
10 property. The act of approving a subdivision, by itself, is legally insufficient to form the basis  
11 of an inverse condemnation claim. Inverse condemnation liability will not lie against a  
12 municipality for damage to private property allegedly caused by private development authorized  
13 by the public entity based on the approval of a subdivision map. While the Nevada Supreme  
14 Court has not specifically ruled on this issue, cases that have addressed this issue generally  
15 prohibit imposing liability on municipalities for approval of a subdivision map.

16 In *Ullery et al. v. Contra Costa County*, 202 Cal. App. 3d. 562, 248 Cal.Rptr. 727, the  
17 County was sued by a downstream property owner in inverse condemnation for damage to  
18 private property due to water drainage upon the allegation that the County's sole affirmative  
19 action was issuance of permits and approval of subdivision map. The plaintiff in *Ullery* sought  
20 damages for landslides allegedly caused by erosion from within an intermittent stream which  
21 provided storm drainage for its source, a 40-acre natural watershed. The complaint alleged that  
22 the County's approval of private subdivisions was the cause of damage to private property due  
23 to drainage of storm water from the subdivisions into a natural water course. Under these  
24 circumstances, the court in *Ullery* decided as follows:

25 \_\_\_\_\_  
26 <sup>3</sup> Exhibits 2-12 show that in regard to the Lancer Estates developments, Washoe County also specifically rejected  
all of the dedications that Plaintiffs assert caused flood damage to their property.



1 However, inverse condemnation liability will not lie for damage to private  
2 property allegedly caused by private development approved or authorized by the  
3 public entity, "where the [public entity's] sole affirmative action was the issuance  
4 of permits and approval of the subdivision map.

5 *Id* at 570.

6 In *Yox v. City of Whittier*, 182 Cal.App.3d 347, 352, 227 Cal.Rptr. 311 (Cal. App. 1986),  
7 liability in inverse condemnation was asserted based on the city's issuance of permits and  
8 approval of allegedly defective design plans for a privately built development. The plaintiffs  
9 there contended that inverse condemnation was established as subdivision map approval could  
10 be analogized to an acceptance of an offer of dedication. However, the Court of Appeal  
11 concluded that the permit issuance and subdivision map approval alone did not constitute a  
12 public use. "Approval of a subdivision map does not constitute such an acceptance of a  
13 pathway even when the street has been offered therein for dedication to the public use by a  
14 private owner." *Id.*, at 354-55.

15 Similarly, in *Gutierrez et al. v. County of San Bernardino*, 198 Cal.App.4th 831, 130  
16 Cal.Rptr.3d 482 (Cal. App. 2011), an action in inverse condemnation was brought against  
17 defendant, County of San Bernardino. The alleged takings occurred during rainstorms in  
18 December 2003 and October 2004. The plaintiffs alleged that on both occasions, plaintiffs'  
19 properties were inundated with water, dirt, and debris flowing from a mountainous area north of  
20 their properties. The *Gutierrez* court stated that, "to state a cause of action for inverse  
21 condemnation, the plaintiff must allege the defendant substantially participated in the planning,  
22 approval, construction, or operation of a public project or improvement which proximately  
23 caused injury to plaintiff's property." *Id.* The *Gutierrez* court found that the plaintiffs' inverse  
24 condemnation action was based solely on the allegation that the county owned the real property  
25 in question. The court rejected inverse condemnation liability on the sole fact allegation of  
26 ownership.

//



1 In Michigan, a landowner filed suit against several defendants including the City of  
2 Bloomfield Hills. *Marilyn Froling Revokable Living Trust v. Bloomfield Hills Country Club*,  
3 283 Mich.App. 264, 769 N.W.2d 234 (Mich. App. 2009). Against the City, the Plaintiff alleged  
4 a claim for inverse condemnation asserting that the City had taken actions in the form of  
5 approval of construction plans, which had the effect of increasing the flow of water onto the  
6 plaintiffs' property. At the trial court, the City's motion was granted as to the inverse  
7 condemnation claim based on the City's approval of the Kiriluks' (a co-defendant) construction  
8 plans stating that, "however, the Froling Trust's (plaintiff) claim must fail because it has not  
9 alleged any affirmative action by the city directly aimed at the Frolings' property." *Id.* at 296.  
10 In other words, the act of approving the construction plans and later issuing an occupancy  
11 permit was insufficient to state an action in inverse condemnation. The Court of Appeals  
12 affirmed the dismissal stating that plaintiff's claim based on the approval of construction plans,  
13 was insufficient to establish that the City had taken the plaintiff's property; it failed to establish  
14 a causal connection between the government's action and the alleged damages.

15 In the instant case, again, the allegations and evidence do not establish any connection of  
16 Washoe County to the property in question other than it performed the governmental function of  
17 approving the subdivision plat map for Lancer Estates and Monte Rosa subdivisions. There is  
18 certainly no evidence that either the County or officials took "any affirmative action" against  
19 Plaintiffs' parcel. There are no allegations or evidence that the County in some way is the owner  
20 of an interest in property relevant to the allegations in the complaint. Plaintiffs have not alleged  
21 nor have they presented any evidence of any direct action taken by Washoe County, other than  
22 the approval of the subdivision maps, which would establish a causal connection to the damage  
23 to Plaintiffs' property. Plaintiffs have not alleged nor have they presented any evidence that  
24 Washoe County substantially participated in the planning, approval, construction, or operation  
25 of a public project or improvement which proximately caused injury to plaintiff's property. The  
26 law does not allow the act of approving a subdivision, by itself, to form the basis of an inverse



1 condemnation claim. Since the plaintiffs have only alleged approval of the subdivision maps as  
2 a basis for inverse condemnation and nothing more, the Plaintiffs' Complaint as to inverse  
3 condemnation relative to both the Lancer Estates and the Monte Rosa subdivisions must be  
4 dismissed.

5 **4. Plaintiffs misconstrue the difference between "inverse condemnation"**  
6 **and nuisance.**

7 At its heart, this lawsuit attempts to bootstrap a nuisance claim into an inverse  
8 condemnation action. In so doing, Plaintiffs have are mischaracterizing "takings" jurisprudence  
9 under Nevada law. Plaintiffs cannot succeed on any theory of tort liability for any injury or  
10 perceived injury that has occurred on their property. This Court has dismissed those claims.

11 "Inverse condemnation is an 'action against a governmental defendant to recover the  
12 value of property which has been taken in fact by the governmental defendant, even though no  
13 formal exercise of the power of eminent domain has been attempted by the taking agency.'" *State, Dep't of Transp. v. Cowan*, 120 Nev. 851, 854, 103 P.3d 1, 3 (2004) (quoting *Thornburg*  
14 *v. Port of Portland*, 233 Or. 178, 376 P.2d 100, 101 n. 1 (Or. 1962)). "A taking can arise when  
15 the government regulates or physically appropriates an individual's private property." *ASAP*  
16 *Storage, Inc. v. City of Sparks*, 123 Nev. 639, 647, 173 P.3d 734, 740 (2007). Mere damage to a  
17 property does not constitute a taking. *See Sloat v. Turner*, 93 Nev. 263, 268, 563 P.2d 86, 89  
18 (1977)("The Constitution of the State of Nevada provides for compensation based solely on a  
19 taking by the state of private property, not for damage thereto"). Conversely, a nuisance is  
20 "[a]nything which is injurious to health, or indecent and offensive to the senses, or an  
21 obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life  
22 or property." NRS 40.140(1)(a).

24 Plaintiffs entire claim is based upon alleged flooding that has occurred or may occur on  
25 their property due to the actions of Washoe County. No evidence exists that (1) a taking has  
26 occurred, or (2) that any taking was for the benefit of the public. Rather, Plaintiffs attempt to



1 receive compensation for a nebulous damage claim, but does not give rise to a constitutional  
2 “takings” claim under Nevada law.

3 **III. CONCLUSION**

4 Accordingly, Defendant Washoe County hereby moves this Honorable Court for an  
5 order granting summary judgment in favor of Defendant pursuant to Nevada Rule of Civil  
6 Procedure 56.

7 **AFFIRMATION PURSUANT TO NRS 239B.030**

8 The undersigned does hereby affirm that the preceding document does not contain the  
9 social security number of any person.

10 Dated this 2nd day of February, 2015.

11 CHRISTOPHER J. HICKS  
12 Washoe County District Attorney

13 By /s/ Michael W. Large  
14 MICHAEL W. LARGE  
15 Deputy District Attorney  
16 P.O. Box 11130  
17 Reno, NV 89520-0027  
18 (775) 337-5700

19 ATTORNEYS FOR WASHOE COUNTY  
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Luke Busby, Esq.

/s/ C. Mendoza  
C. Mendoza



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**EXHIBIT INDEX**

Exhibit 1 Grant Deed .....1 page

Exhibit 2 Lancer Estates Unit 1 Subdivision Map.....3 pages

Exhibit 3 Lancer Estates Unit 2 Subdivision Map.....3 pages

Exhibit 4 Lancer Estates Unit 3 Subdivision Map.....3 pages

Exhibit 5 Lancer Estates Unit 4 Subdivision Map.....3 pages

Exhibit 6 Lancer Estates Unit 5 Subdivision Map.....3 pages

Exhibit 7 Lancer Estates Unit 6 Subdivision Map.....3 pages

Exhibit 8 Lancer Estates Unit 7 Subdivision Map.....3 pages

Exhibit 9 Lancer Estates Unit 8 Subdivision Map.....3 pages

Exhibit 10 Lancer Estates Unit 9 Subdivision Map.....3 pages

Exhibit 11 Lancer Estates Unit 10 Subdivision Map.....3 pages

Exhibit 12 Lancer Estates Unit 11 Subdivision Map.....3 pages

Exhibit 13 Monte Rosa Unit 1 Subdivision Map.....1 page

Exhibit 14 Monte Rosa Unit 2 Subdivision Map.....1 page

**EXHIBIT INDEX**



## **EXHIBIT 1**

## **EXHIBIT 1**



A. P. No. 049-371-62

No. 00113970-KJS

When recorded mail to:  
John Fritz  
P.O. Box 70596  
Reno, NV 89570

Mail tax statements to:  
John Fritz  
P.O. Box 70596  
Reno, NV 89570

DEED

THIS INDENTURE WITNESSETH: That JOHN A. DU PUY and DORA V. DU PUY, husband and wife, in consideration of the sum of Ten Dollars <sup>AND OTHER VALUABLE CONSIDERATION</sup> (\$10.00), the receipt of which is hereby acknowledged, do hereby Grant, Bargain, Sell and convey to JOHN FRITZ and MELISSA FRITZ, husband and wife, as joint tenants with right of survivorship, whose address is: P.O. Box 70596, Reno, NV 89570, all that real property situate in the County of Washoe, State of Nevada, described as follows:

TOWNSHIP 18 NORTH, RANGE 20 EAST:

Section 30: Lot 129.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

DATED Aug 16, 2001.

John A. DuPuy  
John A. DuPuy

Dora V. DuPuy  
Dora V. DuPuy

STATE OF WA

COUNTY OF KING

SS

This instrument was acknowledged before me on August 16, 2001, by JOHN A. DU PUY and DORA V. DU PUY.

[Signature]  
Notary Public



DOC # 2589425  
08/24/2001 04:09P Fee:7.00  
BK1  
Requested By  
WESTERN TITLE INCORPORATED  
Washoe County Recorder  
Kathryn L. Burke - Recorder  
Pg 1 of 1 RPT: 120.00



LAW OFFICES OF  
OTTO & POPE  
104 HUBBARD WAY  
SUITE A  
RENO, NEVADA 89502



## EXHIBIT 2

## EXHIBIT 2



2211

John - in the basement has started in and every day

SUBDIVISION - TRACT MAP 2211

**HEALTH DIVISION CERTIFICATE:**

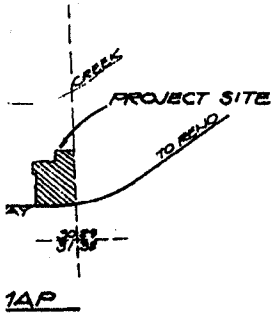
DATE: MAR 97 11



**CERTIFICATION**  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1  
OF TM 221 ON  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS 4TH  
DAY OF SEPTEMBER, 2013  
LAWRENCE R. BURTNESS, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

Per NRS 239B the SSM may be redacted, but in no way  
affects the legality of the document.





## COUNTY SURVEYOR'S CERTIFICATE:

I CERTIFY THAT I HAVE EXAMINED THIS MAP CONSISTING OF ... SHEET, AND THAT ALL PROVISIONS AND ORDINANCES APPLICABLE HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED SAID MAP IS TECHNICALLY CORRECT AND THAT AN ADEQUATE PERFORMANCE BOND HAS BEEN FILED, GUARANTEEING THE MONUMENTS AS SHOWN WILL BE SET BY DECEMBER 1, 1989.

*Ernest A. Dreyer*  
COUNTY SURVEYOR

11-7-84  
DATE

## COUNTY COMMISSIONERS' APPROVAL:

A TENTATIVE MAP OF THIS SUBDIVISION WAS APPROVED ON THE ... 12th ... DAY OF ... JUNE ... 1984 ... AND THIS FINAL MAP WAS APPROVED AND ACCEPTED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY, NEVADA, ON THE ... 20th ... DAY OF ... NOVEMBER ... 1984 ... THE OFFER OF DEDICATION OF STREETS IS REJECTED AT THIS TIME, BUT WILL REMAIN OPEN IN ACCORDANCE WITH N.R.S. 278.390.

ATTEST: *John M. Bailey* COUNTY CLERK  
*John M. Wright* CHAIRMAN



## PLANNING COMMISSION'S CERTIFICATE:

A TENTATIVE MAP OF THIS SUBDIVISION WAS REVIEWED BY THE REGIONAL PLANNING COMMISSION OF THE 3rd DAY OF ... MAY ... 1984 ... AND THIS FINAL MAP IS IN SUBSTANTIAL COMPLIANCE WITH THE TENTATIVE MAP AND ALL CONDITIONS HAVE BEEN MET.

BY: *W. A. Bates* Acting Chairman  
CHAIRMAN  
DATE: 11-7-84

## PUBLIC SEWER FACILITY CERTIFICATE

BLANKET EASEMENTS DESIGNATED BY THIS PLOT FOR SANITARY SEWER FACILITIES AND APPURTENANCES HERETO HAVE BEEN CHECKED AND APPROVED BY THE WASHOE COUNTY CHIEF SANITARY ENGINEER.

*John M. Collins*  
CHIEF SANITARY ENGINEER  
DATE: 11/7/84  
WASHOE COUNTY STATE OF NEVADA

OFFICIAL PLAT	
LANCER ESTATES UNIT 1	
A PORTION OF S.E. 1/4 SECTION 30, T.10N. R.00E, M.00E.	
WASHOE COUNTY NEVADA	
<b>cfa</b> CHURN, FITTINGHOFF & ASSOCIATES PLANNERS, ENGINEERS & SURVEYORS 1150 CORPORATE BLVD. RENO, NV 89502 702-789-1150	DESIGNED R.C. DRAWN HPB CONTR. R.C. CHECKED W.B. DATE: 8/84 SHEET NO. 1 OF 2 SHEETS
	COUNTY RECORDER'S CERTIFICATE FILE NO. 964423 Filed for record at the request of ERINS CONSTRUCTION CO. on this 29th day of NOV., 1984 at 44 minutes past 2 o'clock A.M. Official Recorder of Washoe County, Nevada. <i>Joe Melcher</i> COUNTY RECORDER By: <i>J. R. Wright</i> DEPUTY FEE: \$35

SUBDIVISION - TRACT MAP 2211

CUMULATIVE INDEXES SHOULD BE EXAMINED  
FOR SUBSEQUENT CHANGES TO THIS MAP



## **EXHIBIT 3**

## **EXHIBIT 3**







**CERTIFICATION**

THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 7  
OF TM 2289 ON

RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.

WITNESS MY HAND AND SEAL THIS 32<sup>nd</sup>  
DAY OF SEPTEMBER, 2013

LAWRENCE R. BURTNESS, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

Per NRS 230B the S&S may be redacted, but in no way  
affects the legality of the document.



TESTIFIED SAID MAP IS TECHNICALLY CORRECT AND THAT AN AMERICAN IS PERFECTLY CAPABLE OF BEING FILTER GUARANTEEING THE NOMINATIONS AS SHOWN WILL BE SET BY 0.57/40%.....

Engineer of San Francisco  
COUNTY SURVEYOR  
DATE 8/27/05

COUNTY COMMISSIONERS' APPROVAL:

**ITS SHOWN ON THIS PLAT HAVE BEEN CHECKED, ACCEPTED, AND APPROVED BY  
THE PUBLIC UTILITY COMPANIES.**

58-19-85  
Date  
To: [Signature]  
FROM: [Signature]  
SUBJECT: [Signature]

8.7.2.85.....  
Date

9/9/85  
Date

**WASHOE CO. PLANNING COMMISSION CERTIFICATE:**

A TENTATIVE MAP OF THIS SUBDIVISION WAS REVIEWED BY THE MARSHES COUNTY PLANNING COMMISSION ON THE DAY OF 7/1/94..... 10:30 AM AND THIS FINAL MAP IS IN SUBSTANTIAL COMPLIANCE WITH THE TENTATIVE MAP AND ALL CONDITIONS HAVE BEEN MET.

IS APPROVED BY THE DIVISION OF ENVIRONMENTAL HEALTH SERVICE OF THE DISTRICT HEALTH DEPARTMENT CONCERNING SEWAGE DISPOSAL, WATER POLLUTION, AND WATER SUPPLY FACILITIES IN ACCORDANCE WITH NEVADA REVISED STATUTES, CHAPTER 245, AND LOCAL ORDINANCES.

THIS APPROVAL PREDICATES COMMUNITY WATER SUPPLY AND INDIVIDUAL SEWAGE DISPOSAL.

9/9/85  
Date

OFFICIAL PLAY BALL

EASEMENTS DESIGNATED BY THIS PLAT FOR SANITARY FACILITIES  
ATTENANCES THERE TO HAVE BEEN CHECKED AND APPROVED BY THE WASHOE  
HIEF SANITARY ENGINEER.

DATE 9/2/05

BY: *Robert S. Young* 9/13/85  
DIRECTOR OF PLANNING

THE FOREGOING IS A TRUE STATEMENT

CONCLUSIVE EVIDENCE WOULD BE OBTAINED  
AND SUBSEQUENT CHARGES TO THIS END

**CHANGER ESTATES UNIT-2**

S.E. 1/4, SECTION 30, T.18 N., R.20 E., M.D.M.

WASHOE COUNTY

**WASHOE COUNTY**

NEVADA

OFFICIAL PLAT

RECORDED

ADAM V. MONTGOMERY

DEPUTY

Subdivision ~~THE CITY OF LOS ANGELES~~ 215-70



## **EXHIBIT 4**

## **EXHIBIT 4**







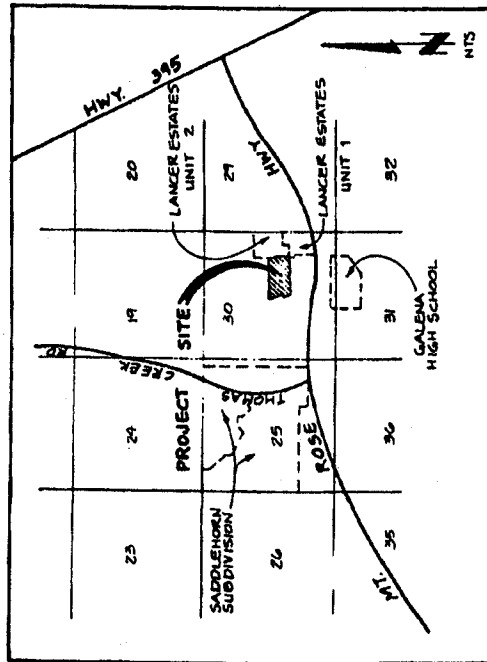
**CERTIFICATION**  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1  
OF TM 2760 ON  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA  
WITNESS MY HAND AND SEAL THIS 320  
DAY OF SEPTEMBER, 2013  
LAWRENCE R. BURNESS, WASHOE COUNTY RECORDER  
BY: Charly G. [Signature] DEPUTY  
Per NRS 239B the SSN may be redacted, but in no way  
affects the legality of the document.



0260

# LANCER ESTATES UNIT 3

PRESENTED  
FOR THE  
BY DEED-  
WATER AND  
ITS



VICINITY MAP

## COUNTY COMMISSIONERS' CERTIFICATE

A TENTATIVE MAP OF THIS SUBDIVISION WAS APPROVED ON THE 27th DAY OF NOVEMBER 1980. THIS FINAL MAP IS APPROVED AND ACCEPTED THE 30th DAY OF DECEMBER 1981 BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY, NEVADA. THE OFFER OF DEDICATION OF THE STREETS, WATER AND SANITARY SEWER FACILITIES ARE REJECTED AT THIS TIME BUT WILL REMAIN OPEN IN ACCORDANCE WITH N.R.S. 278.390.

CHAIRMAN

ATTEST: CLERK



## UTILITY COMPANIES CERTIFICATE:

THE UTILITY EASEMENTS SHOWN ON THIS PLAT HAVE BEEN CHECKED, ACCEPTED, AND APPROVED BY THE UNDERSIGNED PUBLIC UTILITY COMPANIES AND CANY COMPANIES.

SIERRA PACIFIC POWER COMPANY	11-4-90	DATE
NEVADA BELL	11-10-90	DATE
TCI OF NEVADA, INC.	11-6-90	DATE

## HEALTH DISTRICT CERTIFICATE

THIS PLAT IS APPROVED BY THE ENVIRONMENTAL SERVICES DIVISION OF THE WASHOE COUNTY DISTRICT HEALTH DEPARTMENT CONCERNING SEWAGE DISPOSAL, WATER POLLUTION, WATER QUALITY, AND WATER SUPPLY FACILITIES IN ACCORDANCE WITH THE NEVADA REVISED STATUTES. THIS APPROVAL PREJUDGES COMMUNITY WATER SUPPLY AND COMMUNITY SEWAGE DISPOSAL.

11-4-90	30 JAN 1991	DATE
ENVIRONMENTAL SERVICES DIVISION OF THE		
WASHOE COUNTY DISTRICT HEALTH DEPARTMENT		

## PUBLIC WATER FACILITY CERTIFICATE

BLANKET EASEMENTS DESIGNATED BY THIS PLAT FOR PUBLIC WATER FACILITIES AND APPURTENANCES HERETO HAVE BEEN CHECKED AND APPROVED BY THE WASHOE COUNTY CHIEF SANITARY ENGINEER.

11-4-90	30 JAN 1991	DATE
CHIEF SANITARY ENGINEER		
WASHOE COUNTY, NEVADA		



## **EXHIBIT 5**

## **EXHIBIT 5**







**CERTIFICATION**  
**THE FOREGOING IS A FULL, TRUE AND**  
**CORRECT COPY OF PAGES** 1 **ON**  
**OF** 1m 2870  
**RECORD IN THE OFFICE OF THE COUNTY**  
**RECORDER OF WASHOE COUNTY, NEVADA.**  
**WITNESS MY HAND AND SEAL THIS** 3<sup>rd</sup>  
**DAY OF** SEPTEMBER, 2013  
**LAWRENCE R. BURNETT, WASHOE COUNTY RECORDER**  
**BY:** [Signature] **DEPUTY**

Per NRS 239B the S&W may be reflected, but in no way  
affects the legality of the document.



# LANCER ESTATES UNIT 4

Joint Venture, is the  
lat, and has consented to  
hat the same is executed  
if N.R.S. Chapter 278  
opportunities thereto, are  
blic thoroughfares  
m, sanitary sewer  
ounty; and hereby grant  
permanent easement  
enance of drainage and  
hereto forever. The  
al water meters.

is caused its name to  
day of June, 1992.

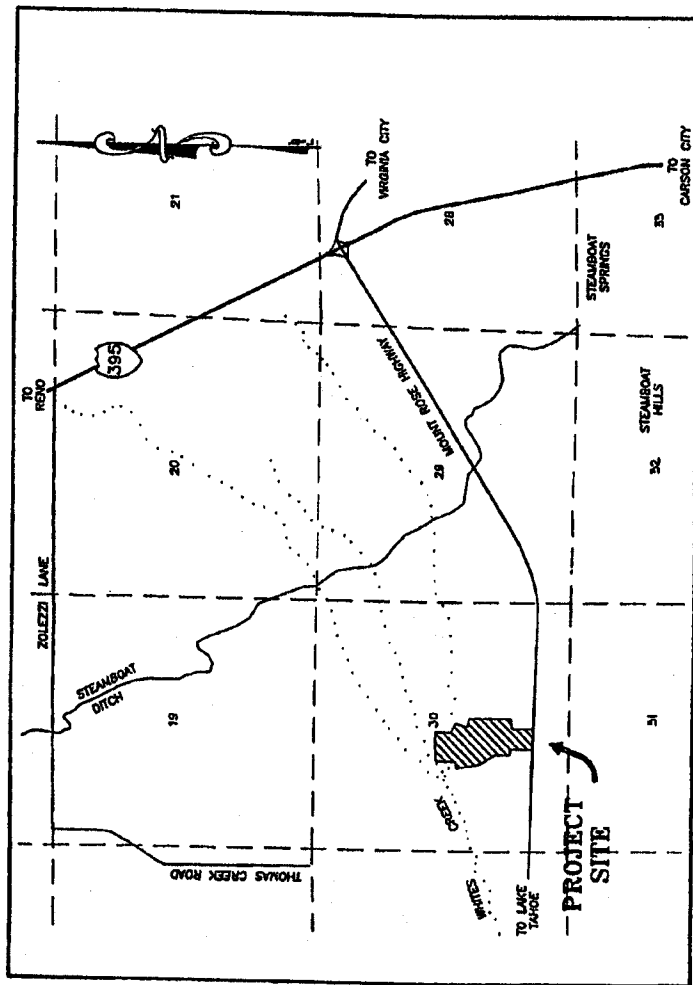
BARNESON TRUST

BLAIR FAMILY TRUST

personally appeared  
oe, Don J. Ekins,  
dged to me that  
ereof, I hereunto  
id year first

ANDY HUTCHINS  
Public - State of Nevada  
not Bonded in Washoe County  
EXPIRES FEB 1, 1994

ices on the land



## COUNTY COMMISSIONER'S APPROVAL

Accepted and adopted by the Board of County Commissioners of Washoe County, Nevada this 23 day of June, 1992. A tentative map of this subdivision was approved by the Board of County Commissioners of Washoe County Nevada on the 17th day of December, 1991. The offer of dedication of streets, water and sanitary sewer facilities are rejected at this time by the Board of County Commissioners with the offer to remain open in accordance with the provisions of N.R.S. Chapter 278.390.

ATTEST: County Clerk

Chairman

## SURVEYOR'S CERTIFICATE

I, Gilbert W. Patterson, a Professional Land Surveyor in Nevada, certify that:

1. This is a true and accurate representation of the my supervision at the instance of DON EKINS.
2. The lands surveyed lie within a portion of the S 18 N., R. 20 E., M.D.M. and the survey was June 14, 1992.
3. This plat complies with the applicable state statutes and ordinances.
4. The monuments will be of the character shown indicated by file 6, 1993 and that an approval has been posted with the governing body to assure

Gilbert W. Patterson  
GILBERT W. PATTERSON  
6/11/92

## HEALTH DISTRICT CERTIFICATE

This plat is approved by the Environmental Services Division of the County District Health Department concerning sewage disposal, water quality, and water supply facilities in accordance with the Nevada Statutes. This approval predicates community water supply disposal.

B. J. C. H. H. H.  
Environmental Services Division of the  
Washoe County District Health Department

## COUNTY SURVEYOR'S CERTIFICATE

I hereby certify that I have examined this plat consisting of all provisions and ordinances as applicable have been that I am satisfied that the map is technically correct, has been submitted to the County Clerk as per NRS Chapter 278.390, Subparagraph 2, and that said monuments will be set in accordance with the provisions of NRS Chapter 278.390.

Gilbert W. Patterson  
County Surveyor  
Date 6/11/92  
NEVADA  
COUNTY CLERK  
WASHOE COUNTY  
NO. 9511



## **EXHIBIT 6**

## **EXHIBIT 6**



2938

# LANCER ESTATES UNIT 5

## OWNER'S CERTIFICATE

This is to certify the undersigned, Lancer Ltd., a Joint Venture, is the owner of the tract of land represented on this plat, and has consented to the preparation and recording of this plat and that the same is executed by the undersigned in accordance with the provisions of the Nevada Statutes, Chapter 204, and that the streets as shown, and all appurtenances thereto, are hereby dedicated and set apart to be used as public thoroughfares forever, and the undersigned, Lancer Ltd., hereby agrees to execute and record a public utility easement and a permanent easement shown on this plat, together with the right of access thereto forever, and the undersigned agrees to the use of residential water meters.

In witness whereof, Lancer Ltd., a Joint Venture has caused its name to be subscribed by its authorized officers on this 10th day of April, 1993.

BY: DON J. ENNS, President  
BY: John L. Barneson, President, Barneson Investments Inc.  
BY: Lloyd E. Blair, Trustee of the L.E. & J.E. Blair Family Trust

## NOTARY PUBLIC CERTIFICATE

STATE OF NEVADA }  
COUNTY OF WASHOE } S.S.  
On this 10th day of April, 1993, personally appeared before me, a Notary Public, in the County of Washoe, Don J. Enns, Lloyd E. Blair, and John L. Barneson, all of whom are known to me, and they acknowledged to me that they executed the foregoing instrument, in witness whereof, I hereunto set my hand and affix my official seal the date and year first written above.

## NOTARY PUBLIC CERTIFICATE

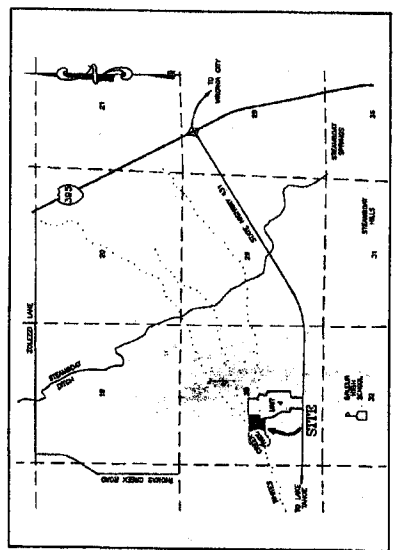
STATE OF NEVADA }  
COUNTY OF WASHOE } S.S.  
On this 10th day of April, 1993, personally appeared before me, a Notary Public, in the County of Washoe, John L. Barneson, Lloyd E. Blair, and Don J. Enns, all of whom are known to me, and they acknowledged to me that they executed the foregoing instrument, in witness whereof, I hereunto set my hand and affix my official seal the date and year first written above.

## PUBLIC UTILITY COMPANY'S CERTIFICATE

The utility easements shown on this plat have been checked, and approved by the undersigned public utility and DNV companies.  
Don J. Enns, President, DNV  
John L. Barneson, President, Barneson Investments Inc.  
Lloyd E. Blair, Trustee of the L.E. & J.E. Blair Family Trust

## PUBLIC UTILITY COMPANY'S CERTIFICATE

The utility easements shown on this plat have been checked, and approved by the undersigned public utility and DNV companies.  
Don J. Enns, President, DNV  
John L. Barneson, President, Barneson Investments Inc.  
Lloyd E. Blair, Trustee of the L.E. & J.E. Blair Family Trust



## VICINITY MAP

## COUNTY COMMISSIONER'S APPROVAL

Reviewed and approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993. A tentative map of this unit was submitted to the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993, and the same was approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993. The Board of County Commissioners of Washoe County, Nevada, hereby approves the tentative map of this unit, and the same is hereby approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993.

## COUNTY COMMISSIONER'S APPROVAL

Reviewed and approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993. A tentative map of this unit was submitted to the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993, and the same was approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993. The Board of County Commissioners of Washoe County, Nevada, hereby approves the tentative map of this unit, and the same is hereby approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993.

## COUNTY COMMISSIONER'S APPROVAL

Reviewed and approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993. A tentative map of this unit was submitted to the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993, and the same was approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993. The Board of County Commissioners of Washoe County, Nevada, hereby approves the tentative map of this unit, and the same is hereby approved by the Board of County Commissioners of Washoe County, Nevada on this 13th day of April, 1993.

## SURVEYOR'S CERTIFICATE

I, Robert W. Peterson, a Professional Land Surveyor registered in the State of Nevada, certify that:  
1. This is a true and accurate representation of the lands surveyed under my supervision and the boundaries of Lancer Ltd.  
2. The lands surveyed lie within a portion of the South 1/2 of Section 30, T.16 N., R.20 E., M.D.M. and the survey was completed on 10/10/93.  
3. This plat complies with the applicable state statutes and any local ordinances.  
4. The monuments will be of the character shown and occupy the positions indicated by the plat, and that on appropriate performance guarantee indicated by the plat, and that the governing body is aware of this guarantee.

## TAX CERTIFICATE

The undersigned hereby certifies that all property taxes on the land for the fiscal year have been paid.  
Washoe County Treasurer  
George A. Thomas  
Date: 5-19-93

## DISTRICT HEALTH CERTIFICATE

This plat is approved by the Environmental Services Division of the Washoe County District Health Department.  
Environmental Services Division of the Washoe County District Health Department  
Date: 12/20/93

## COUNTY SURVEYOR'S CERTIFICATE

I hereby certify that I have examined the plat consisting of 2 pages and that all provisions and endorsements as applicable have been completed with and that the same are in accordance with the Nevada Statutes, Chapter 204, Subchapter 2, and that said monuments will be set by 11:25:37 AM.

## PLANNING COMMISSION APPROVAL

A tentative map of this subdivision (TM 7-11-90) was recommended for record by the Washoe County Planning Commission on the 3rd day of December, 1991, and the same was approved by the Board of County Commissioners of Washoe County, Nevada, on this 13th day of April, 1993. The Board of County Commissioners of Washoe County, Nevada, hereby approves the tentative map and all variations of approval.

## PLANNING COMMISSION APPROVAL

A tentative map of this subdivision (TM 7-11-90) was recommended for record by the Washoe County Planning Commission on the 3rd day of December, 1991, and the same was approved by the Board of County Commissioners of Washoe County, Nevada, on this 13th day of April, 1993. The Board of County Commissioners of Washoe County, Nevada, hereby approves the tentative map and all variations of approval.

## PLANNING COMMISSION APPROVAL

A tentative map of this subdivision (TM 7-11-90) was recommended for record by the Washoe County Planning Commission on the 3rd day of December, 1991, and the same was approved by the Board of County Commissioners of Washoe County, Nevada, on this 13th day of April, 1993. The Board of County Commissioners of Washoe County, Nevada, hereby approves the tentative map and all variations of approval.

2938

SUBDIVISION TRACT MAP 2938



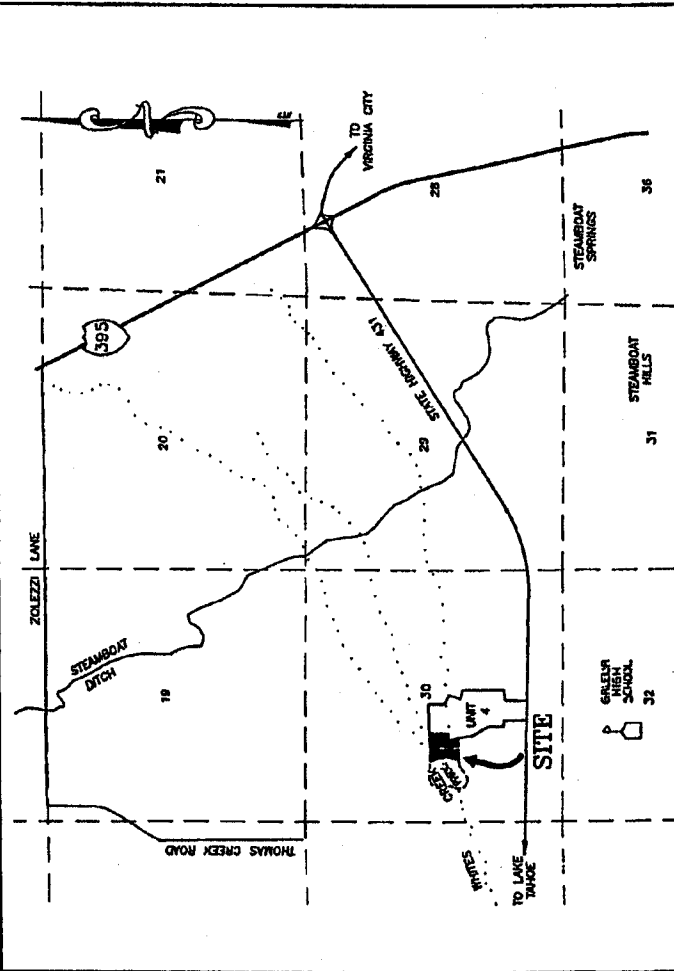
**CERTIFICATION**

THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1 ON  
OF TM 2938  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS 3<sup>RD</sup>  
DAY OF SEPTEMBER, 2013  
LAWRENCE R. BURTNES, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

Per NRS 239B the SSN may be redacted, but in no way  
affects the legality of the document.



# LANCER ESTATES UNIT 5



## VICINITY MAP

### COUNTY COMMISSIONER'S APPROVAL

Approved and accepted by the Board of County Commissioners of Washoe County, Nevada this 25th day of May, 1993. A tentative map of this subdivision was approved by the Board of County Commissioners of Washoe County, Nevada on the 17th day of December, 1991, and in accordance with N.R.S. 278.360 a one year extension was provided due to Commission approval of Lancer Estates Unit 4 on the 23rd day of June, 1992 and recorded as Document No. 1592946, and the offer of dedication of the public streets, water and sanitary sewer facilities shown hereon being rejected at this time by the Board of County Commissioners with the offer to remain open in accordance with the provision of N.R.S. Chapter 278.390.

ATTEST: Barbara J. Baird  
County Clerk

Chairman  
V. J. Baird

r Ltd., a Joint Venture, is the on this plat, and has consented to let and that the same is executed provisions of N.R.S. Chapter 278 and all appurtenances thereto, are as public thoroughfares forever; term, sanitary sewer facilities County; and hereby grant to oil a permanent easement shown on inance of drainage and utility ss thereto forever. The owner and i water meters.

Venture has caused its name to his 15th day of April, 1993.

4/15/93

4/15/93

WESON INVESTMENTS INC.

4/15/93

E. & J.E. BLAIR FAMILY TRUST

ATE

1993, personally appeared ty of Washoe, Don J. Ekins, me that they executed the hereunto set my hand and first written above.

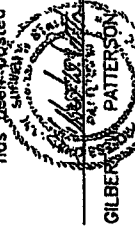
ATE

1993, personally appeared ty of Washoe, John L. he executed the above to set my hand and affix

### SURVEYOR'S CERTIFICATE

I, Gilbert W. Patterson, a Professional Land Nevada, certify that:

1. This is a true and accurate representation of the lands surveyed at the instance of Lancer Estates Unit 5, M.D.M. and the at 18 N., R. 20 E., M.D.M. and the at 3 May 1993.
2. This plat complies with the applicable ordinances.
3. The monuments will be of the character indicated by the plat, and that has been posted with the governing b
4. The monuments will be of the character indicated by the plat, and that has been posted with the governing b



### TAX CERTIFICATE

The undersigned hereby certifies that all pro for the fiscal year have been paid.

Washoe County Treasurer

James P. Thomas Date 5-1

TITLE: Deputy

### DISTRICT HEALTH CERTIFICATE

This plat is approved by the Environmental County District Health Department concerning water quality, and water supply facilities in Statutes. This approval predicates community disposal.

James P. Thomas  
Environmental Services Division of the Washoe County District Health Department

### COUNTY SURVEYOR'S CERTIFICATE

I hereby certify that I have examined this plat that all provisions and ordinances as applicant that I am satisfied that the map is technically correct and has been submitted to the County Clerk as Subparagraph 2, and that said monuments

David M. Thomas



## **EXHIBIT 7**

## **EXHIBIT 7**







CERTIFICATION  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1 ON  
OF TM 3042  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS 3<sup>RD</sup>  
DAY OF SEPTEMBER 2013  
LAWRENCE R. BURTNESS, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

For each page the fee may be reduced. In witness my  
hand and seal of the Recorder



designed, Lancaster<sup>1</sup> Ltd., a Joint Venture, is the owner and represented on this plat, and has consented to the dedication of this plat and the same is executed in full and final satisfaction of the provisions of N.R.S. Chapter 278 and is subject to the provisions of N.R.S. Chapter 278 and is as shown, and all appurtenances thereto, are to be used as public thoroughfares forever; to be used as public thoroughfares forever; for distribution system, sanitary sewer facilities and hereby grant to all within Washoe County, permanent easements shown on this plat for the purpose of the construction and maintenance of drainage and utility lines and the right of access thereto. The owner and the use of residential water meters.

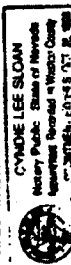
IT VENTURE

**PRESIDENT. BARNESON INVESTMENTS INC.**

TRUSTEE OF THE L.E. & J.E. BLAIR FAMILY TRUST

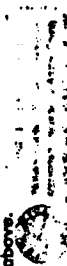
## 55

of Apart. 1994, personally appeared  
in the County of Washoe, Don J. Ekins,  
acknowledged to me that they executed the  
whereof. I hereunto set my hand and  
date and year first written above.

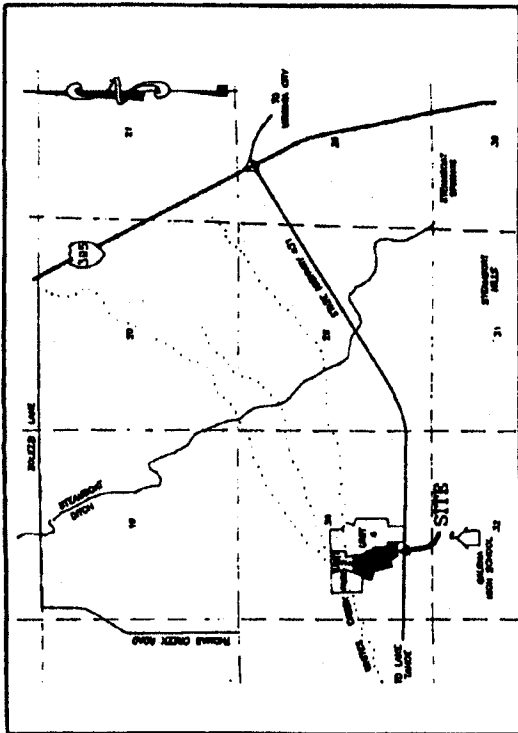


## 55

of ~~April~~ April, 1994, personally appeared \_\_\_\_\_, in the County of Washoe, John L. \_\_\_\_\_, to me that he executed the above whereof, I hereunto set my hand and affix a seal and year first written above.



11-10-1964



### VICINITY MAP

**WASHOE COUNTY PLANNING COMMISSION CERTIFICATE**

A tentative map of Lancer Estates subdivision TM 7-11-90 was recommended for approval by the Washoe County Planning Commission on the 2nd day of October, 1990, and approved by the Board of County Commissioners of Washoe County on the 27th day of November, 1990, an amendment to TM 7-11-90, was recommended for denial by the Washoe County Planning Commission on the 3rd day of December, 1991, but such recommendation was overruled by the Board of County Commissioners of Washoe County, Nevada on the 17th day of December, 1991. The final map of Lancer Estates Unit 5 subdivision was approved by the Board of County Commissioners of Washoe County, Nevada, on the 25th day of May, 1993, and subsequently recorded on the 28th day of May 1993. The final map of Lancer Estates Unit 6 is in substantial conformance with the tentative map and all the conditions of approval have been met. This final map is approved and accepted this 12<sup>th</sup> day of May, 1994 by the Planning Commission of Washoe County, Nevada. The offer of dedication of the roadways, water and sewer facilities is rejected at this time, but will remain open in accordance with N.R.S. 278.

James L. Virella  
Chairman

ATTEST: The Director certifies that the Washoe County Planning Commission took the action noted above with a majority vote of the members present.

*Franklin D. Thompson*  
Director, Department of Development Review

*5/1/79*  
Date

# PUBLIC WATER AND SEWER FACILITY CERTIFICATE

Easements Designated by this plat for public water and sewer facilities and appurtenances hereto have been checked and approved by the Washoe County Utility Division.

June Steel  
Kashoe County Utility Division

# TAX CERTIFICATE

**The undersigned hereby certifies that all property taxes on the land**

## SURVEYOR'S CERT

I, Lee H. Smithson, a Profes  
Nevada, certify that:

1. This plot represents the direct supervision at the R-20E, M.D.M. and the
2. The lands surveyed in the R-20E, M.D.M. and the
3. This plot complies with ordinances in effect at final approval.
4. The monuments depicted and occupy the positive appropriate financial body before recording

LEE H. SMITHSON

**TITLE COMPANY'S**

The undersigned hereby certify that the above is a true and correct copy of the record as the same appears in the records of Lancer Ltd., a Joint Venture, as delineated hereon and that it is the property of all the owners of record of the above described property and that it holds of record a security in the above described property and that there are no liens of record against the above described property for any taxes, county, municipal, federal, state, or special assessment.

By William Christie  
ROBERT A. CHRISTIE  
Vice President  
Chief Title Officer

## DISTRICT BOARD (

This final map is approved t  
This approval concerns sewer  
water supply facilities and is  
supply and a community sys

Paul R. Chubb  
for the District Board of Health

# COUNTY SURVEYOR

I hereby certify that I have read that all provisions and ordinance that I am satisfied that the guarantee has been filed with  
APR 20 1996



## EXHIBIT 8

## EXHIBIT 8



Washoe County Utility Division  
Date 8/24/04

*[Signature]*  
Division of Water Resources

Date 9 May 91

MISSISSAUGA COUNTY, MISSISSAUGA



**CERTIFICATION**  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1  
OF TM 3080 ON  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA  
WITNESS MY HAND AND SEAL THIS 3<sup>RD</sup>  
DAY OF SEP 2013  
LAWRENCE R. BURNETT, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

For NR06-2008 the SSN may be redacted, but the name  
attests the identity of the document.



# LANCER ESTATES UNIT 7

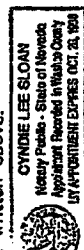
id., a Joint Venture, is the this plat, and has consented to and that the same is executed and that the same is executed in accordance with the provisions of N.R.S. Chapter 278 and all appurtenances thereto, are as public thoroughfares forever, sanitary sewer facilities hereby grant to all permanent easements shown on plat of drainage and utility thereto forever. The owner and after meters.

ture has caused its name to be set on day of APRIL.

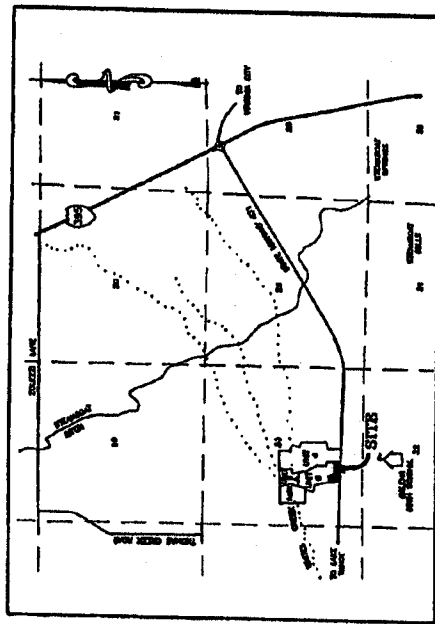
ON INVESTMENTS INC.

J.E. BLAIR FAMILY TRUST

1994, personally appeared Washoe, Don J. Edins, that they executed the unto set may hand and written above.



1994, personally appeared f Washoe, John L. executed the above set my hand and affix



VICINITY MAP

## WASHOE COUNTY PLANNING COMMISSION CERTIFICATE

A tentative map of Lancer Estates Subdivision TM-11-90 was recommended for approval by the Washoe County Planning Commission on the 2nd day of October, 1990 and approved by the Board of Commissioners of Washoe County on the 27th day of November, 1990. An amendment to TM 7-11-90, was recommended for denial by the Washoe County Planning Commission on the 3rd day of December, 1991, but such recommendation was overruled by the Board of County Commissioners of Washoe County, Nevada on the 17th day of December, 1991. The final map of Lancer Estates Unit 6 Subdivision was approved by the Planning Commission of Washoe County, Nevada on the 17th day of May, 1994 and subsequently recorded on the 18th day of May, 1994. The final map of Lancer Estates Unit No. 7 is in substantial conformance with the tentative map and all the conditions of approval have been met. This final map is approved and accepted this 20th day of September, 1994 by the Planning Commission of Washoe County, Nevada. The offer of dedication of the roadways, water and sewer facilities is rejected at this time, but will remain open in accordance with N.R.S. 278.

*James B. Murphy* 20 Sept 1994  
Chairman Date

ATTEST: The Director certifies that the Washoe County Planning Commission took the action noted above with a majority vote of the members present.

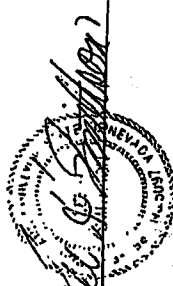
*Michael A. Hager* 9/20/94  
Director, Department of Development Review Date

## WATER RIGHT DEDICATION CERTIFICATE

The water and sewer resource requirements set forth in Article 422

## SURVEYOR'S CERTIFICATE

1. Lee H. Smithson, a Professional Land Surveyor Nevada, certify that:
2. This plat represents the results of a survey direct supervision at the instance of Lancer Estates, M.D.M. and the survey was completed within the South 1/4 of Section 20E., M.D.M. and the survey was completed in effect on the date that the final approval.
3. The monuments depicted on the plat will and occupy the position indicated by appropriate financial guarantee will be provided before recordation to assure the integrity of the plat.



LEE H. SMITHSON

## TITLE COMPANY'S CERTIFICATE

The undersigned hereby certifies that this plat is and that Lancer Ltd., a Joint Venture, owns of 1 in the lands delineated hereon and that it is the record of sold land; that all the owners of record signed the final map; that no one holds of record interest in the land to be divided and that there record against the common interest community county, municipal, federal or local taxes or assessments as taxes or special assessments

STEWART TITLE OF NORTHERN NEVADA

By *Bill Hanks* 1 Da  
BILL HANKS President

## DISTRICT BOARD OF HEALTH CERTIFICATE

This final map is approved by the Washoe County Health Board. This approval concerns sewage disposal, water supply, water supply facilities and is predicated upon the supply and a community system for disposal of

*Jackie Shellen*  
for the District Board of Health



## **EXHIBIT 9**

## **EXHIBIT 9**







**CERTIFICATION**  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1 ON  
OF TM 31561  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS 3RD  
DAY OF SEPTEMBER, 2013  
LAWRENCE R. BURNES, WASHOE COUNTY RECORDER  
BY: Charles R. Bates DEPUTY

Per NRS 239.010 the SRM may be recorded, but in no way  
affects the legality of the document.







## **EXHIBIT 10**

## **EXHIBIT 10**



## UNIT 6

Fritz v. Washoe County - Case No. 67660 - Bates No. 000084



**CERTIFICATION**

THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1

OF 77-3456 ON

RECORD IN THE OFFICE OF THE COUNTY

RECORDER OF WASHOE COUNTY, NEVADA

WITNESS MY HAND AND SEAL THIS 4TH

DAY OF SEPTEMBER, 2013

LAWRENCE R. BURNESS, WASHOE COUNTY RECORDER

BY: [Signature] DEPUTY

Per NRS 239B the SSN may be redacted, but in no way  
affects the legality of the document.



perfect



**KRISTEN L. ASHWORTH**  
 History Publics • Space • 11th Minnesota  
 Quarterly Reader • Wp. • 1st County  
 No. 91-1000-2 • 1000000 A.D.T. 2, 2000

**HOLSTEN L. ASHWORTH**  
History Teacher - State of Nevada  
Appointed Resident in Washoe County  
MC 01-1889-3 - EXPIRES JULY 23, 2001

DATE September 5, 1997

✓



I CERTIFY THAT I HAVE EXAMINED THIS MAP CONSISTING OF 2 SHEETS AND THAT ALL PROVISIONS AND ORDINANCES APPLICABLE HAVE BEEN COMPLIED WITH AND THAT I AM SATISFIED THAT THE MAP IS TECHNICALLY CORRECT, AND THAT AN ADEQUATE PERFORMANCE GUARANTEE HAS BEEN FILED GUARANTEEING THE MONUMENTS AS SHOWN WILL BE SET BY Sept. 15, 1999.

9/23/67

A TENTATIVE MAP OF LANCER ESTATES SUBDIVISION, TM 7-11-90, WAS RECOMMENDED FOR APPROVAL BY THE WASHOE COUNTY PLANNING COMMISSION ON THE 2nd DAY OF OCTOBER, 1990, AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY, NEVADA ON THE 27th DAY OF NOVEMBER, 1990. AN AMENDMENT TO TM 7-11-90 WAS RECOMMENDED FOR DENIAL BY THE WASHOE COUNTY PLANNING COMMISSION ON THE 3rd DAY OF DECEMBER, 1991, BUT SUCH RECOMMENDATION WAS OVERRULED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY, NEVADA ON THE 17th DAY OF DECEMBER, 1991.

Eric H. Hays  
CHAIRMAN

7/5/8/01

1. GEORGE C. LINDESMITH, A PROFESSIONAL LAND SURVEYOR LICENSE
1. THIS PLAT REPRESENTS THE RESULTS OF A SURVEY CONDUCTED UND  
INSTANCE OF LANCER LTD., A JOINT VENTURE.
2. THE LANDS SURVEYED LIE WITHIN A PORTION OF THE SE1/4 OF SECT  
WASHOE COUNTY, NEVADA, AND THE SURVEY WAS COMPLETED ON 9-
3. THIS PLAT COMPLIES WITH THE APPLICABLE STATE STATUTES AND AN  
ON THE DATE THAT THE GOVERNING BODY GAVE ITS FINAL APPROVAL
4. THE MONUMENTS DEPICTED ON THE PLAT WILL BE OF THE CHARACTER  
INDICATED BY 9-15, 1997, AND AN APPROPRIATE FI  
WITH THE GOVERNING BODY BEFORE RECOGNITION TO ENSURE "THE INST

12019 (F. 12019)  
GEORGE G. UNDERSMITH - P.L.S. 6306

THIS FINAL MAP IS APPROVED BY THE WASHOE COUNTY DISTRICT BOARD CONCERNING SEWAGE DISPOSAL, WATER POLLUTION, WATER QUALITY AND VARIOUS PRECIPITATED UPON PLANS FOR A PUBLIC WATER SUPPLY AND A COMBINATION OF SEWAGE.

*Carol R. Calhoun*  
FOR THE DISTRICT BOARD OF HEALTH

THIS PLAY IS APPROVED BY THE STATE OF NEVADA DIVISION OF WAT  
DEPARTMENT OF CONSERVATION AND NATURAL  
REVIEW OF APPROVAL ON FILE IN THIS OFFICE.

*Am*                      *K. P. E.*  
DIVISION OF WATER RESOURCES

THE UTILITY EASEMENTS SHOWN ON THIS PLAT HAVE BEEN CHECKED  
UNDERSIGNED PUBLIC UTILITY AND CATV COMPANIES.

Carol Cassin  
SIERRA PACIFIC POWER COMPANY

Don Carmichael  
NEVADA BELL

Dennis W. Lee  
TCL OF NEVADA - RENO

*R. M. Swartz*  
WASHOE COUNTY UTILITY DIVISION



## **EXHIBIT 11**

## **EXHIBIT 11**







CERTIFICATION  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1  
OF 14 3754 ON  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS 4<sup>TH</sup>  
DAY OF SEPTEMBER 2013  
LAWRENCE R. BURTNES, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

Per NRS 238B 6.3 SSN may be redacted, but in no way  
affects the legality of this document.



# INITIAL PUBLIC CERTIFICATE

STATE OF Nevada } S.S.  
COUNTY OF Washoe

On this 20 day of August, 1999, personally appeared before me, a Notary Public, in the County of Washoe, JOHN L. BARNESON, known to me to be the PRESIDENT of BARNESON INVESTMENTS, INC., who acknowledged to me that he executed the above instrument on behalf of said corporation. In witness whereof, I hereunto set my hand and affix my official seal the date and year first written above.



Robert W. Sellman  
NOTARY PUBLIC

## NOTARY PUBLIC CERTIFICATE

STATE OF Nevada } S.S.  
COUNTY OF Washoe

On this 25 day of August, 1999, personally appeared before me, a Notary Public, in the County of Washoe, PROCTOR J. HUG, known to me to be the MANAGING MEMBER of WCD, LLC, A NEVADA LIMITED LIABILITY COMPANY, who acknowledged to me that he executed the above instrument on behalf of said party. In witness whereof, I hereunto set my hand and affix my official seal the date and year first written above.

Proctor J. Hug  
NOTARY PUBLIC



## COMMUNITY DEVELOPMENT CERTIFICATE

A tentative map of the LANCER ESTATES Subdivision, TM7-11-90, was approved by the Washoe County Planning Commission on the 2nd day of October, 1990. An amendment to TM 7-11-90 was recommended for denial by the Washoe County Planning Commission on the 3rd day of December, 1991, but such recommendation was overruled by the Board of County Commissioners of Washoe County, Nevada on the 17th day of December, 1991.

The final map of the LANCER ESTATES, UNIT 9 subdivision was approved by the Community Development Director of Washoe County, Nevada, on the 7th day of October, 1997, and subsequently recorded on the 9th day of October, 1997.

A one year extension for filing the next final map was approved by the Washoe County Planning Commission on the 7th day of October, 1998.

The final map of the LANCER ESTATES, UNIT 10 subdivision is in substantial conformance with the tentative map and all the conditions of approval have been met. This final map is approved and accepted this 21st day of September, 1999 by the Development Director of Washoe County, Nevada. The offer of dedication of the roadways, sewer facilities, and water facilities is rejected at this time but will remain open under N.R.S. 278.

William D. Dickman Proctor J. Hug September 23, 1999  
ROBERT W. SELLMAN  
COMMUNITY DEVELOPMENT DIRECTOR

CUMULATIVE INDEXES  
SHOULD BE EXAMINED  
FOR ANY SUBSEQUENT  
CHANGES TO THIS MAP



## **EXHIBIT 12**

## **EXHIBIT 12**



**4157**

Fritz v. Washoe County - Case No. 67660 - Bates No. 000092



**CERTIFICATION**  
THE FOREGOING IS A FULL, TRUE AND  
CORRECT COPY OF PAGES 1  
OF 718 3197 ON  
RECORD IN THE OFFICE OF THE COUNTY  
RECORDER OF WASHOE COUNTY, NEVADA.  
WITNESS MY HAND AND SEAL THIS 3<sup>RD</sup>  
DAY OF SEPTEMBER, 2013  
LAWRENCE R. BURNESS, WASHOE COUNTY RECORDER  
BY: [Signature] DEPUTY

Per NRS 240.010 the SRM may be reduced, but it may  
affect the integrity of the document.



2197

# LANCER ESTATES UNIT 11

## CERTIFICATE

I, that the undersigned, Lancer Ltd., a Joint Venture, is the tract of land represented on this plat, and has consented to the recordation of this plat and that the same is executed in full and subject to the provisions of N.R.S. Chapter 278 and 116, streets, avenues, and highways and all appurtenances thereto as hereby dedicated and set apart to be used as public thoroughfares hereby grants to all public utilities and Washoe County sewerage shown on this plat for paved snow storage and the maintenance of traffic control signage, drainage and utility sewer facilities and associated appurtenances are hereby Washoe County. The owner and assignees agree to the use of

sewer, Lancer Ltd., a Joint Venture has caused its name to its authorized officers on this 1st day of September.

TO, A JOINT VENTURE

KINS

BARNESON, PRESIDENT, BARNESON INVESTMENTS INC.

## PUBLIC CERTIFICATE

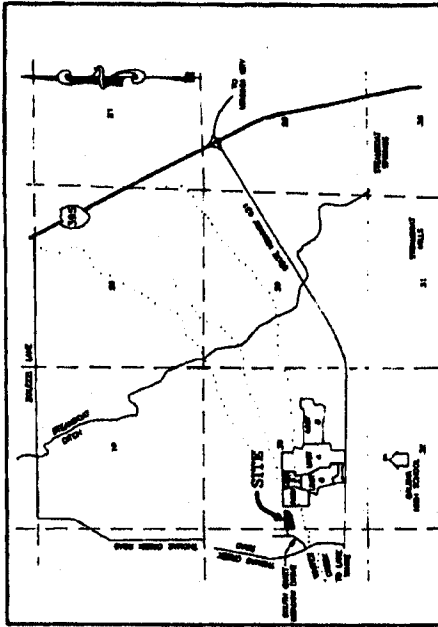
S.S.

it was acknowledged before me on this 7th day of September, 1995, by Dan J. Ekins.

## PUBLIC CERTIFICATE

S.S.

it was acknowledged before me on this 7th day of September, 1995, by John L. Barneson, as President of Barneson Investments Inc.



VICINITY MAP

## SURVEYOR'S CERTIFICATE

I, Lee H. Smithson, a Professional Land Surveyor, Nevada, certify that:

1. This plat represents the results of a direct supervision at the instance of L. R.20E., M.D.M. and the survey was completed.
2. The lands surveyed lie within the South R.20E., M.D.M. and the survey was completed.
3. This plat complies with the applicable ordinances in effect on the date that final approval.
4. The monuments depicted on the plat and occupy the position indicated by appropriate financial guarantee will be body before recordation to assure the

LEE H. SMITHSON

## WASHOE COUNTY PLANNING COMMISSION CERTIFICATE

A tentative map of Lancer Estates Subdivision TM 7-11-90 was recommended for approval by the Washoe County Planning Commission on the 2nd day of October, 1990 and approved by the Board of Commissioners of Washoe County, Nevada, on the 27th day of November, 1990. An amendment to TM 7-11-90, was recommended for denial by the Washoe County Planning Commission on the 3rd day of December, 1991, but such recommendation was overruled by the Board of County Commissioners of Washoe County, Nevada on the 17th day of December, 1991. The final map of Lancer Estates Unit 8 Subdivision was approved by the Planning Commission of Washoe County, Nevada on the 20th day of June, 1995, and subsequently recorded on the 23rd day of June, 1995. The final map of Lancer Estates Unit 11 is in substantial conformance with the tentative map and all the conditions of approval have been met. The final map is approved and accepted this 17th day of September, 1995 by the Planning Commission of Washoe County, Nevada. The offer of dedication of the roadways, water and sewer facilities is rejected at this time, but will remain open in accordance with N.R.S. 278.

Chairman

Date

ATTEST: The Director certifies that the Washoe County Planning Commission took the action noted above with a majority vote of the members present.

Director, Department of Development Review

## TITLE COMPANY'S CERTIFICATE

The undersigned hereby certifies that this plat and that Lancer Ltd., a Joint Venture, owns in the lands delineated hereon and that it is record of said land; that all the owners of interest in the land to be divided and that interest against the common interest community, municipal, federal or local taxes or as taxes or special assessments

STEWART TITLE OF NORTHERN NEVADA

By Robert A. Christie

ROBERT A. CHRISTIE  
Vice President, Chief Title Officer

## DISTRICT BOARD OF HEALTH

This final map is approved by the Washoe County Board of Health. This approval concerns sewage disposal, water supply facilities and is predicated upon supply and a community system for disposal

for the District Board of Health



## **EXHIBIT 13**

## **EXHIBIT 13**







## **EXHIBIT 14**

## **EXHIBIT 14**



4036

**A NATIONAL LAMBERT TUBULAR COMPANY**

THE INSTANT WAS ACKNOWLEDGED BEFORE ME ON THE 11 DAY OF September 2007  
AT NEW YORK, NY IN THE PRESENCE OF WILLIAM H. HARRIS OF WILLIAM H. HARRIS & ASSOCIATES, P.C.  
LIMITED LIABILITY COMPANY.

## SECURITY INTEREST HOLDER'S CERTIFICATE

THIS IS TO CERTIFY THAT THE UNDERSIGNED, NEVADA STATE BANK, A NEVADA BANKING CORPORATION, CONSENTS TO THE PREPARATION AND RECORDATION OF THIS PLAT.

STATE OF NEVADA } SS  
COUNTY OF WASHOE }  
THIS DEED WAS ACKNOWLEDGED BEFORE ME ON THE 20th DAY OF April, 2007  
BY Michael S. Galt AS SENIOR OF THE WASHOE COUNTY OF NEVADA STATE BANK, A NEVADA  
BANKING CORPORATION.

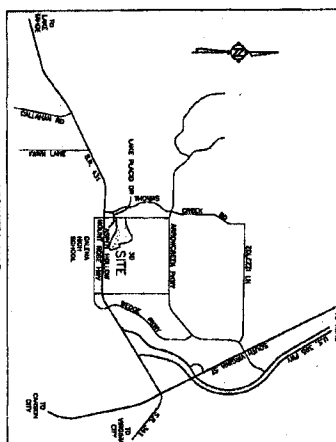
[illegible]

1. I, GERALD D. KAMING, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF NEVADA, CERTIFY THAT:

2. I WAS PRESENT AT THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WORTH COUNTY, NEVADA, ON THE DATE THAT THE ORDINANCE WAS PASSED.

3. THE LAND SURVEYED WAS A PORTION OF THE SOUTHWEST 1/4 OF SECTION 26, T. 10S, R. 12E, W. 40N, WASHOE COUNTY, NEVADA, AND THE SURVEY WAS COMPLETED ON 11/20/2018.

4. THE LAND SURVEY COMPLETED WAS THE APPLICABLE STATE STATUTES AND ALL LOCAL ORDINANCES IN EFFECT ON THE DATE THAT THE ORDINANCE WAS PASSED WAS FINAL APPROVAL.

EDWARD G. JONES, P.L.S.  
NEVADA CERTIFICATE NO. 12144

## UTILITY COMPANIES CERTIFICATE (CONT. SHT.2)

THE UTILITY EASEMENTS SHOWN ON THIS PLAT HAVE BEEN CHECKED, ACCEPTED AND APPROVED BY THE UNDERSIGNED UTILITY COMPANIES AND WABASH COUNTY DEPARTMENT OF WATER RESOURCES, AND DO NOT RELINQUISH THOSE EXISTING EASEMENTS EXCEPT AS NOTED, LOCATED WITHIN THE EXTERIOR BOUNDARY OF THIS PLAT. SAID EASEMENTS ARE RELINQUISHED IN FAVOR OF THOSE EASEMENTS QUANTIFIED, LOCATED AND APPROVED HEREON.

PAUL & SAVEDRA  
MACHINE AND SERVICES

4/10/2007  
DATE

**NOTARY CERTIFICATIONS**

STATE OF NEVADA 1 SS  
COUNTY OF CLARK

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 24<sup>TH</sup> DAY OF April

STATE OF NEVADA )  
COUNTY OF CLATSOP )

COUNTY OF WASHOE 1 33  
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 20<sup>th</sup> DAY OF April,  
2008, by JOHN C. FINE AS AREA MANAGER C & E/ RIGHT OF WAY.

STATE OF NEVADA ) ss  
COUNTY OF WASHOE )

THE INSTITUTION AND ACHIEVEMENTS BEFORE ME ON THE 14th DAY OF April  
 1968 AT HOUSTON, TEXAS AS DESIGNER ENGINEER.  
David H. Davis  
 DESIGNER ENGINEER

 AMERICAN SOCIETY OF MECHANICAL ENGINEERS  
 345 EAST 57th STREET, NEW YORK 22, N.Y.

James J. Moore, Mayor  
City of Portland

Subdivision Tract Map 4836

## DISTRICT BOARD OF HEALTH CERTIFICATE

DIVISION OF WATER RESOURCES CERTIFICATE

THIS PLAT IS APPROVED BY THE STATE OF MICHIGAN DIVISION OF WATER RESOURCES OF THE DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES CONCERNING WATER QUANTITY SUBJECT TO THE REVIEW OF APPROVAL ON FILE IN THIS OFFICE.

*Thomas J. Kelly*  
DIVISION OF WATER RESOURCES  
STATE OF MICHIGAN  
THOMAS J. KELLY, PE.

11/14/07  
DATE

# WATER RIGHT DEDICATION CERTIFICATE

THE WATER AND SEWER RESOURCE REQUIREMENTS SET FORTH IN ARTICLE 422 OF THE MARICOPA COUNTY DEVELOPMENT CODE, RELATED TO THE DESTRUCTION OF WATER RESOURCES, HAVE BEEN SATISFIED.

*W. J. [Signature]*  
MARICOPA COUNTY DEPARTMENT OF \_\_\_\_\_

11/9/07

# COUNTY SURVEYORS CERTIFICATE

I CERTIFY THAT I HAVE EXAMINED THIS PLAT CONSISTING OF FIVE SHEETS, AND THAT I AM SATISFIED THAT THE SAME IS TECHNICALLY CORRECT AND THAT AN ADEQUATE PERFORMANCE GUARANTEE HAS BEEN FILED GUARANTEEING THE WORKMENTS AS SHOWN WILL BE SET BY 10-11-06


**COMMUNITY DEVELOPMENT CERTIFICATE**

[illegible]

21 // 20443

[illegible]

THE DISCOVERY

<p>    <b>FEDERAL BUREAU OF INVESTIGATION</b>  <b>U. S. DEPARTMENT OF JUSTICE</b>  <b>WASHINGTON, D. C. 20535</b>  <b>TELEPHONE (202) 344-3111</b>  <b>TELETYPE (202) 344-3111</b>  <b>FACSIMILE (202) 344-3111</b>  <b>INTERNET (202) 344-3111</b>  <b>WWW.FBI.GOV</b> </p>	<p> <b>1</b>  <b>5</b> </p>
---	---------------------------------



1 CODE 2645  
2 Luke Busby, Esq.  
3 Nevada Bar No. 10319  
4 216 East Liberty St.  
5 Reno, NV 89501  
6 775-453-0112  
7 luke@lukeandrewbusbyltd.com  
8 *Attorney for John and Melissa Fritz*

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

11 JOHN AND MELISSA FRITZ,

12 Plaintiffs,

CASE NO. CV13-00756

13 vs.

DEPT NO. 1

14 WASHOE COUNTY,

15 Defendant(s),  
16 \_\_\_\_\_/

17 **OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**

18 COMES NOW, JOHN FRITZ and MELISSA FRITZ, a married couple ("Plaintiffs"),  
19 residents of Washoe County, Nevada, by and through the undersigned counsel, and hereby  
20 file the following Opposition Defendant Washoe County's Motion for Summary Judgment  
21 ("Motion") filed on February 2, 2015. The Plaintiff's are requesting an order from the  
22 Court requiring Washoe County to compensate Plaintiffs for the taking and condemnation  
23 of their property at 14400 Bihler Rd., Washoe County APN No. 142-241-63 (hereinafter  
24 "the Property" or "Plaintiff's Property" or "Subject Property").

25 This Opposition is made and based upon all of the pleadings and records on file for  
26 this proceedings together with every exhibit that is mentioned herein or attached hereto  
27 (each of which is incorporated by this reference as though it were set forth hereat in haec  
28 verba), if any there be, as well as the points and authorities set forth directly hereinafter.

///

///



## POINTS AND AUTHORITIES

### Standard of Review

1. Per Nevada Rule of Civil Procedure 56(c), an order granting summary judgment is proper only when there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. When reviewing this motion for summary judgment, the evidence and all reasonable inferences drawn from the evidence, must be viewed in a light most favorable to the Plaintiffs. *Allstate Ins. Co. v. Fackett*, 206 P.3d 572, 575 (2009).

### Statement of Facts

2. The facts detailed below are either true by reference to the contents or represent genuine issues of material fact that are disputed by and between the Plaintiffs and Washoe County.

3. Plaintiff John Fritz, attests to the following facts in the affidavit attached hereto as Exhibit 1<sup>1</sup>:

- (a) That in 2001 John Fritz along with his wife Melissa Fritz, purchased 14400 Bihler Rd.
- (b) That John Fritz built a home with two adjoining garage structures at 14400 Bihler Rd.
- (c) That in 2002, John Fritz was able to easily walk across Whites Creek No. 4, which runs over the south end of 14400 Bihler Rd. Since that time, Whites Creek No. 4 has increased significantly in size and depth. There is currently an approximately six foot deep and approximately twenty foot wide cut in Whites Creek No. 4 at the south end of 14400 Bihler Rd.
- (d) That since 2002, upon any significant rain event the south end of 14400 Bihler Rd. further erodes and/or flooding occurs on the property.
- (e) That in December in 2008, John Fritz applied for a grading permit from Washoe County to build a ditch to control flooding at 14400 Bihler Rd;
- (f) That year upon year the flooding and erosion at 14400 Bihler Rd. gets worse;
- (g) That John and Melissa Fritz had plans to further develop 14400 Bihler Rd. but has been unable to do so because of the continual flooding; and
- (h) On August 9, 2014, Mr. Fritz took the photographs attached to his affidavit marked as Washoe v. Fritz First Supp. 0001-0005, which show flooding at and around 14400 Bihler Rd.

---

<sup>1</sup> Many of the documents exchanged by the parties during discovery were not Bates Stamped. Therefore, for the convenience of the Court the exhibits herein are Bates Stamped "Fritz v. Washoe Opp to MSJ" followed by a unique number.



1           4. The Plaintiff's Expert Witness, Mr. Clark Stoner P.E., has prepared a report,  
2 which is attached hereto as Exhibit 2, and has executed an Affidavit, which is attached  
3 hereto as Exhibit 3, in which Mr. Stoner authenticates his report and attests to the following  
4 facts:

- 5           (a) In August of 1984, Washoe County adopted Ordinance No. 616, the  
6 Flood Hazard Reduction Ordinance, adopting all, or most, of the  
7 provisions of the Federal Emergency Management Agency's (FEMA)  
8 "Flood Insurance Study for Washoe County, Nevada, Unincorporated  
9 Areas," dated February 1, 1984.
- 10          (b) The southernmost channel of Whites Creek, the channel upland from and  
11 crossing the Subject Parcel, was determined to be a "Flood Hazard Area,"  
12 according to FEMA's 1984 Flood Insurance Rate Map (FIRM).
- 13          (c) Prior to 1984, there had been no development near the southernmost  
14 channel of Whites Creek and the Subject parcel. In the area now occupied  
15 by Lancer Estates, aerial photographs show that pre-development runoff  
16 from the Lancer Estates area entered the southernmost channel of Whites  
17 Creek several hundred feet downhill and east of the Subject Parcel.
- 18          (d) The limits of the FEMA floodplain boundary for the southernmost  
19 channel of Whites Creek would remain basically unchanged from its  
20 original 1984 location through the 1990s and early 2000s. In 2009, FEMA  
21 issued a new FIRM, which showed that the floodplain along the  
22 southernmost channel of Whites Creek grew wider and the majority of the  
23 floodplain was located further north.
- 24          (e) Later phases of Lancer Estates, Units 3 through 10, were approved and  
25 constructed between 1991 and 2001. Development plans for Lancer  
26 Estates Units 3, 4 and 5 indicate that the overall strategy for drainage  
27 control within Lancer Estates was to intercept runoff from, and grade  
28 over, the long pre-existing drainage rivulets crossing the development, and  
convey the drainage underground north into the southernmost channel of  
Whites Creek, upland from the Subject Parcel.
- (f) Responding to active and future development occurring in the area of  
lower Whites Creek, Washoe County commissioned a Preliminary Basin  
Management Study, which was published in August 1994, to identify flood  
hazards and to "develop interim policies for new development and  
infrastructure improvements within the watershed."
- (g) Among several "problem areas" noted in the Preliminary Basin  
Management Study as having flooding potential, included were those  
developed Lancer Estates parcels for which Whites Creek Channel #4  
passed through.
- (h) Sometime between 2007 and July 2010, an asphalt concrete parking lot was  
constructed at Whites Creek County Park.
- (i) That the storm drain system of Monte Rosa ties into the storm drain  
system at Lancer Estates.



- 1 (j) As the result of the upland developments and questionable stormwater  
2 control philosophy, dating back to the mid-1980s, Whites Creek Channel  
3 #4 has continued to experience increasing stormwater discharges.  
4 (k) The cause of flooding on the Subject Parcel is not due to recurring 100-  
5 year flood events, but is the result of alterations of the floodplain upland  
6 from the Subject Parcel. Washoe County has been aware of the flood  
7 hazard crossing the Subject Parcel since 1984, when the County adopted  
8 the Flood Hazard Reduction Ordinance. Instead of reducing the flood  
9 hazard on the Subject Parcel, development of Lancer Estates included  
10 obstructing the floodplain and forcing it north, which has caused repeated  
11 flooding on the Subject Parcel and has made the flood hazard more severe.  
12 Absent corrective measures, flooding on the Parcel will continue, and  
13 when the 100-year flood event planned for during design of Sterling Ranch  
14 finally occurs, damages to the Subject Parcel will likely be disastrous.

15 5. Exhibit 4 is a 1990 letter from CFA Engineering addressed to the Washoe  
16 County Engineering Division. Exhibit 4 is part of the record of the Lancer Estates  
17 Resubmittal of Tentative Map and is therefore admissible as a public record per NRS  
18 52.085. This letter makes clear that at one time the plans for Lancer Estates included a  
19 detention pond for floodwaters from Lancer Estates, but that in discussions with Washoe  
20 County the plans for such detention ponds were disregarded. In other words, Washoe  
21 County and the developer of Lancer Estates determined that the increased runoff from  
22 Lancer Estates would be dumped into Whites Creek Channel #4 unabated. Exhibit 4  
23 shows that Washoe County was directly involved in the activities of the developer of Lancer  
24 Estates related to drainage of water from the subdivision into Whites Creek:

25 6. At our meeting on August 30, we concluded that the detention ponds  
26 shown on the tentative map will be deleted. Storm flows will be directly  
27 discharged into the flood zone of Whites Creek, and the developer will  
28 provide all the erosion control at the outlets. In addition, the *increased  
runoff caused by this development will not be retained on site.*  
[emphasis added] (Exhibit 4 at Bates No. 29)

29 6. As described in Exhibit 5, which is a July 3, 2008 letter from Washoe County's  
30 Department of Public Works, Washoe County is a member in and participates in the  
31 National Flood Insurance Program, ("NFIP"). By virtue of its membership in the NFIP,  
32 Washoe County is required to manage floodplains within Washoe County in ways that meet  
33 or exceed standards set by the Federal Emergency Management Agency ("FEMA").  
34 Exhibit 5 is admissible as an admission per NRS 51.035(3)(a).



1           7. According to Section 4.6.5 of Chapter 4 of Washoe County's 2004-2025  
2 Comprehensive Regional Water Plan<sup>2</sup>, the pertinent parts of which are attached hereto as  
3 Exhibit 6. Exhibit 6 is admissible as a public record per NRS 52.085. Pursuant to the  
4 NFIP:

5           Each jurisdiction has adopted Flood Hazard Reduction Ordinances that  
6 establish guidelines and requirements for the development of property  
7 within areas determined to be subject to flood damage. Local  
8 communities and *counties are responsible for developing and  
9 implementing ordinances for management of areas in their  
10 communities, which are prone to flooding.*" [emphasis added] (Exhibit 6  
11 at Bates No. 52)

12           8. Exhibit 7 contains pertinent parts the Resubmittal of Tentative Map for Lancer  
13 Estates. Exhibit 8 contains pertinent parts of the Final Subdivision Map and Construction  
14 Plan Review for Monte Rosa. Exhibits 7 and 8 show that Washoe County approved of and  
15 adopted the activities of the developers of Lancer Estates and Monte Rosa by requiring the  
16 submittal of planning applications and tentative maps, which directed the developers of  
17 Lancer Estates and Monte Rosa to build Lancer Estates and Monte Rosa, including the  
18 parts of Lancer Estates that provide a public function such as roads, sewers, and drainage  
19 facilities, in accordance with Washoe County's applicable rules, regulations, and master  
20 plans. Exhibits 7 and 8 are admissible as a public records per NRS 52.085

21           9. Exhibit 7 shows that Lancer Estates was built according to Washoe County's  
22 Master Plan:

23           [Question] Do any other planning policies, such as those in the  
24 Comprehensive Regional Plan, support this request? Yes--x- No \_ If the  
25 answer is yes, identify which policies and why they would support the  
26 request:

27           [Answer ]The project is supported by the following policies from the  
28 Washoe County Master Plan: G.5.4.1, G.5.6.1, G.5.6.2., G.6.1.1.,  
G.6.3.3.,G.6.4.2, G.6.6. (Exhibit 7 at Bates No. 78)

10           10. Exhibit 8 shows that Monte Rosa was built according to Washoe County's  
11 Southwest Truckee Meadows Area Plan. According to the Staff Report included in Exhibit  
12

28 <sup>2</sup> Washoe County's Comprehensive Regional Water Management Plan  
can be found at : [http://www.washoecounty.us/repository/files/10/Title\\_TOC\\_Ack\\_Intro.pdf](http://www.washoecounty.us/repository/files/10/Title_TOC_Ack_Intro.pdf)



1 8, the developer was required to develop the storm drain system “with the City and County  
2 Public Works Departments:”

3         Develop a comprehensive storm drainage system with the City and  
4         County Public Works Departments. It should be adequately sized and  
5         designed to accommodate storm drain flows from all present and future  
6         development within and downstream from the plan area. Additionally,  
       peak runoff rates will be controlled to pre-development conditions.  
       (Exhibit 8 at Bates No. 104)

7         11. In April of 1994, Washoe County commissioned a Preliminary Whites Creek  
8         Basin Management Study (“Cella Bar Study”) prepared by Cella Bar Associates, which had  
9         been commissioned by Washoe County to study the hydrology of the Whites Creek area.  
10        The Cella Bar Study, dated August 17, 1994 is attached hereto as Exhibit 9. Exhibit 9 is  
11        admissible as a public record per NRS 52.085. On Bates No. 127 of Exhibit 9, it states,  
12        “Lancers Estate - Some of the residential lots backing up adjacent to the south of Channel  
13        #4 have a potential for flooding during a 100-year event” and indicates that this section is a  
14        “problem area.” This “problem area” includes the Plaintiff’s Property.

15        12. Washoe County has further required the developers of Lancer Estates and Monte  
16        Rosa to conduct hydrological reports and/or studies as part of the development process.  
17        The requirement for such studies was implemented after the development of Lancer Estates  
18        Unit 5, and as such, studies exist for Lancer Estates Units 6 through 11, and for Monte Rosa  
19        Units Phases I and Phase II. These studies are attached hereto as Exhibits 10, 11, 12, 13,  
20        14, 15, 16, 17, and 18. Each one of these exhibits is admissible as a public records per NRS  
       52.085.

21        13. Exhibit 10, which is the storm drain analysis for Lancer Estates Units 6 and 7,  
22        states that water that would have flown westerly from the development was channeled into  
23        Whites Creek Channel #4, across the Plaintiff’s Property:

24         The construction of Units 2 and 3 has blocked the natural drainage path  
25         from the Westerly part of the site to Drainage Channel No. 4. The  
26         drainage facilities that were constructed with those units have a limited  
27         capacity. Therefore, the storm drain system in Units 5, 6 and 7 has been  
28         designed to intercept much of the Westerly site drainage and transport it  
       to Drainage Channel No. 4. (Exhibit 10 at Bates No. 159)



1           14. In a letter dated June 13, 1996, attached hereto as Exhibit 19 from the Nevada  
2 Department of Transportation to Washoe County, it shows that Washoe County agreed to  
3 divert water from Mr. Rose Highway through Lancer Estates into Whites Creek Channel  
4 #4. Exhibit 19 shows that Washoe County had control over activities related to flooding  
5 while Lancer Estates was being developed and was directing the actions of the developers  
6 to the detriment of the Plaintiff's Property. Exhibit 19 is part of the record of Lancer  
7 Estates Resubmittal of Tentative Map and is therefore admissible as a public record per  
8 NRS 52.085. The letter in Exhibit 19 states:

9           During discussions in April of 1993 it was decided between the  
10 department and Washoe County that all flows between Telluride Dr. and  
11 Sundance Dr. exceeding 10 cfs would be conveyed northerly through the  
12 Lancer Estates property. (Exhibit 19 at Bates No. 333)

13           15. Exhibit 13, which is the hydrology report from Lancer Estates Units 10, shows  
14 that Washoe County was directing the developers of Lancer Estates to handle the hydrology  
15 of the subdivisions in accordance with the decision indicated in the letter from NDOT to  
16 Washoe County in Exhibit 19, and thereby taking water that would have otherwise drained  
17 down Mt. Rose Highway around the Plaintiff's Property and redirecting it to Whites Creek  
18 Channel #4 and across the Plaintiff's Property: Exhibit 13 states:

19           In 1993 it was decided between NDOT and Washoe County that all flows  
20 south of the existing berm between Telluride Dr. and Sundance Dr.  
21 exceeding 10 cfs. would be conveyed northerly through the Lancer  
22 Estates property (Ref. NDOT letter in the appendix). (Exhibit 13 at Bates  
23 No. 202)

24           16. Exhibit 14, which is the hydrology report from Lancer Estates Units 11, shows  
25 that Washoe County was aware that the development of the subdivision would result in  
26 increased flows in Whites Creek Channel #4 that would cross the Plaintiff's Property:

27           With development of the Lancer Estates Unit No. 11 Subdivision, the  
28 proposed storm drainage system is designated to carry all 10 year flows  
which will be generated by development and will discharge into  
acceptable drainage ways. The runoff will be increased by approximately  
12% or 0.8 cfs (10 year). This increase will have a minimal effect on  
downstream properties. (Exhibit 14 at Bates No. 227)



1 17. Exhibit 15, which contains pertinent parts of the the hydrology report from  
2 Monte Rosa Unit 3A, shows that Washoe County was aware that flows from Monte Rosa  
3 would be discharged into Whites Creek Channel #4. Although detention ponds were used  
4 in the development of Monte Rosa Unit 3A to reduce the increased flow that would be  
5 created by the development, in the case of a large storm event the water would have to be  
6 discharged into Whites Creek Channel #4, which could cause massive flooding on the  
Plaintiff's Property:

7 Detention ponds were sized to reduce post-development peak flow rates  
8 to below the pre-development peak flow rates for both the 5 yr and 100 yr  
9 storms. Emergency Overflow route for Pond 2 in the HEC-1 Model is to  
10 discharge into a special overflow grate drain which carries additional storm  
11 water, above the 100 year storm, to Whites Creek via a 24" pipe. Storm  
12 water will only spill into the overflow grate when the storm water elevation  
13 in the pond reaches above the 100 year elevation. This 100 year surface  
14 elevation is 5570.90'. Additionally a weir has been created to discharge  
15 additional flows that may occur with storms greater than the 100 year  
storm event to Whites Creek on the north side of Pond 2. The  
overtopping point elevation for the weir is 5571'. This is above the 100  
year storm water elevation and lower then the top pond height. (Exhibit 15  
at Bates No. 249)

16 18. Exhibit 16, which contains pertinent parts of the hydrology report from Monte  
17 Rosa Unit 3B, shows that Washoe County was directing the design of the hydrological  
18 system for Monte Rosa Unit 3B. In a letter included in the report dated August 7, 2014  
19 addressed to Kris Klein P.E. of the Washoe County Engineering Department, the extent of  
20 Washoe County's direction of the development is made plain:

21 Wood Rodgers has revised the pre- and post-condition hydrologic models  
22 for the Estates at Mount Rose, Unit 3B in response to your comments.  
23 Except for a few minor wording changes the sections of the Technical  
24 Drainage Report addressing on-site flow conveyance (ditches, catch  
25 basins, and pipes) were not revised. Wood Rodgers made every attempt to  
address each of your concerns and comments in the revised Technical  
Drainage Report as well as within this letter. (Exhibit 16 at Bates No.  
269)

26 [Q] Appendix, HEC-1 Analysis, Pond Outlets. The Pond 2 outlet shown  
27 in the report does not match the approved Unit 3A plans: why?

28 [A] The County has a revised plan for Unit 3A showing the final design  
for the outlet structure of Pond 2. However, through the finalization of



1 the HEC-HMS modeling it was determined that slight modifications to  
2 the outlet structure of Pond 2 will be required during construction of  
3 Pond 1. The modification consists of adding a 8" orifice plate to the 24"  
4 inlet pipe and leave the size of the existing 8" orifice as such on the 15"  
5 inlet pipe. (Exhibit 16 at Bates No. 271)

6 19. Although language in the report is clearly intended to minimize any impact the  
7 development of Monte Rosa 3B would have in Whites Creek Channel #4, portions of  
8 Exhibit 16 clearly show that the development will increase runoff into the channel:

9 A slight increase in peak flows leaving the site and at the downstream  
10 concentration point (C2 and C1 respectively) occurs during the 5-year  
11 event. The 5-year increase in peak flow is minimal (8.6 cfs (0.70%) at C2  
12 and 5.27 cfs (0.44%) at C1) and the water surface elevation on Whites  
13 Creek is raised by no more than 0.01 ft, which is easily contained entirely  
14 within the existing Whites Creek channel. An increase in peak flows of  
15 10.6 cfs (0.2%) at C2 is expected for the 100-year event. However, a 14.6  
16 cfs reduction in peak flows occurs at C 1. The increased flows at C2 result  
17 in a rise of the water surface elevation within Whites Creek of no more  
18 than 0.01 ft. The increased flows can be easily contained within the  
19 existing Whites Creek channel. The anticipated increases in peak flows of  
20 less than 1 % in Whites Creek are in compliance with those outlined in  
21 the approved Flood Control Master Plan for Mt. Rose Estates by Nimbus  
22 Engineers. (Exhibit 16 at Bates No. 282)

23 20. Exhibits 17 and 18, which are pertinent parts of the hydrology reports from  
24 Monte Rosa Phase I and II, shows that Washoe County was directing the design of the  
25 hydrological system for Monte Rosa Phase I. Exhibits 17 and 18 state that the whole point  
26 of the report is to demonstrate conformance with Article 420 of the Washoe County  
27 Development Code:

28 The purpose of this report is to show the drainage plan conforms to  
Article 420 of the Washoe County Development Code and the  
Conditions for The Reserve at Monte Rosa Tentative Subdivision Map  
dated January 5th 2005. (Exhibit 17 at Bates No. 294) (Exhibit 18 at Bates  
No. 315)

21 As demonstrated by Exhibit 20, Washoe County has approved the final maps for  
22 Lancer Estates and Monte Rosa. The documents in Exhibit 21 are admissible as a public  
23 records per NRS 52.085. Each final map in Exhibit 20 dedicates streets and stormwater  
24 facilities from the developer to Washoe County, although the language used in the final



1 maps varies. Each of the final maps in Exhibit 20 contains the following language, or  
2 language that is substantially similar in the section labeled “Owner’s Certificate:”

3 This is to certify the undersigned, Lancer Ltd., a Joint Venture, is the  
4 owner of the tract of land represented on this plat, and has consented to  
5 the preparation and recordation of this plat and that the same is executed  
6 in compliance with and subject to the provisions of NRS Chapter 278 and  
7 116, and that the streets as shown, and all appurtenances thereto, are  
8 hereby dedicated and set apart to be used as public thoroughfares forever;  
9 hereby dedicates a water distribution system, sanitary sewer facilities and  
10 associated appurtenances to Washoe County; and hereby grant to all public  
11 utilities and the County of Washoe, *permanent easements shown on this  
12 plat for the construction and maintenance of drainage and utility  
13 systems, together with the right of access thereto forever.* The owner and  
14 assignees agree to the use of residential water meters. [*Emphasis added*]  
15 (Exhibit 20 at Bates No. 339)

16 22. Each of the final maps in Exhibit 20 also contains the following language, or  
17 language that is substantially similar in the section labeled “County Commissioners’  
18 Approval:”

19 The offer of dedication of *streets, water and sanitary sewer facilities*  
20 *are rejected* at this time by the Board of County Commissioners with the  
21 offer to remain open in accordance with the provisions of NRS Chapter  
22 278.390. [*Emphasis added*] (Exhibit 20 at Bates No. 341)

23 It does not appear that in any of the final maps in Exhibit 20 that Washoe County  
24 specifically rejected any drainage easements or facilities.

25 23. NRS 278.390 states in pertinent part:

26 Title to property *dedicated or accepted* for streets and easements *passes*  
27 *when the final map is recorded.* If at the time the final map is approved  
28 any streets are rejected, the offer of dedication shall be deemed to remain  
open and the governing body or planning commission may by resolution  
at any later date, and without further action by the subdivider, rescind its  
action and accept and open the streets for public use. [*Emphasis added*].

29 24. As demonstrated Exhibit 21, attached hereto and included herein, Washoe  
30 County has accepted dedication of “the streets” in all of the Lancer Estates developments  
31 1-11. The documents in Exhibit 21 are admissible as self-authenticating public records per  
32 NRS 52.125. “The streets” as used in the documents accepting dedication is a term of art  
33 that includes the storm drainage system, as Washoe County maintains the drainage system



1 within Washoe County's right-of-way and drainage easements accepted by Washoe County.  
2 This fact is made clear by language in the final maps in Exhibit 20 that state that drainage  
3 facilities outside of the dedicated right-of-way granted to Washoe County are the  
4 responsibility of homeowners.

5 25. Washoe County indisputably owns and/or maintains the means by which water  
6 is collected in Lancer Estates and is then conveyed downstream across the Plaintiff's  
7 Property via Whites Creek Channel #4, and has for some time. Exhibit 22 is a map that  
8 shows which streets in the pertinent area that are owned by Washoe County per the  
9 acceptance of dedication documents in Exhibit 19, which contain the stormwater  
10 conveyance system of curbs and gutters. Exhibit 23 is a map showing Whites Creek  
11 generally. Exhibit 24 is a map showing an overhead image of the Property. The acceptance  
12 of dedication documents in Exhibit 21 includes language confirming that the, "streets are  
13 necessary for public access" and that Washoe County's Department of Public Works is to  
14 open the roads for "public use."

15 26. As a practical matter, when a developer builds a housing subdivision in Washoe  
16 County, the developer is required to build all of the infrastructure that is later to be  
17 dedicated for public use, such as streets, sewer systems, and storm drain systems, etc. This  
18 requirement is included in the Washoe County Development Code at Section 110.610.30  
19 "Improvements at the Expense of the Subdivider." This Section requires that the  
20 subdivider make the improvements prescribed in Section 110.610.30 at his own expense,  
21 and states in subsection (a):

22 Required Improvements. The subdivider shall improve at his own  
23 expense, within a stated time, all land dedicated on a final map for streets,  
24 highways, public ways and easement(s) with such improvements as the  
25 Planning Commission or Board of County Commissioners may determine  
26 to be necessary for the general use of lot owners in the subdivision and  
27 local neighborhood traffic, water distribution, sanitary sewer and drainage  
28 needs.

25 At the time of recording of a final map, it is typical that construction of the subdivision is  
26 ongoing, which is why Section 110.412.80 of the Washoe County Development Code  
27 requires that a developer post a "faithful performance bond" to guarantee completion of  
28 the public works aspects of the development. Absent a performance bond, there is little a



1 local government can do to enforce the promise that developers make to complete public  
2 facilities. The only case in the Lexis annotations for NRS 278.390 describes just such a  
3 situation: *Kowalchuk v. Hall*, 80 Nev. 3 (Nev. 1964). This is why NRS 278.390 permits a  
4 governing body to reject dedication of public facilities at the time of approval and recording  
5 of the final map. In other words, title to the facilities passes upon recordation of the final  
6 map, but the developer is still required to complete such facilities in accordance with the  
7 promises it has made, lest it forfeit the posted performance bond. The governing body will  
8 not take the final step of “accepting” the dedicated facilities and releasing the faithful  
9 performance bond until such facilities have been completed according to the terms of  
10 the development application and in accordance with applicable standards. This is the case  
11 even though NRS 278.390 states that the governing body takes title to the facilities when it  
12 approves and records the final map as such facilities are “dedicated or accepted.” Thus, as  
13 the final maps for Lancer Estates and Monte Rosa have been recorded as shown in Exhibit  
14 20, title for such facilities has passed to Washoe County and such facilities are ultimately  
15 Washoe County’s responsibility. The point of structuring the transaction this way is that  
16 the developer is required to build the “public use” infrastructure that the homeowners in  
17 the subdivision and the public at large will all eventually use, such as streets and storm  
18 drainage systems, thus requiring “growth to pay for itself.” This is why Washoe County was  
19 participating in the planning, design, and engineering of the drainage system of Lancer  
20 Estates and Monte Rosa as shown above, i.e. public works infrastructure is built by the  
21 developer with the entire intention being that Washoe County will eventually own and  
22 maintain it once the project is completed.

### 21 **Washoe County’s Motion**

22 27. The Motion argues that: (1) The Plaintiff’s lack standing to bring an inverse  
23 condemnation action against Washoe County for any action affecting the property that  
24 occurred prior to the Plaintiff’s purchase of the property in 2001 (Motion at page 7 line 11);  
25 (2) Washoe County did not accept the storm drains and/or detention ponds in the Monte  
26 Rosa subdivision (Motion at page 9 line 5); (3) Approval of a final map does not create  
27 municipal liability for a taking by inverse condemnation (Motion at age 10 line 4); and (4)  
28 The Plaintiff’s misconstrue the difference between inverse condemnation and nuisance



(Motion at page 13 line 5). The Plaintiffs will address Washoe County's arguments in turn below.

**The Plaintiffs have standing to bring this Case.**

28. Washoe County's Motion argues that the Plaintiff's lack standing to bring an inverse condemnation action against Washoe County for any action affecting the Property that occurred prior to the Plaintiff's purchase of the Property in 2001 (Motion at page 7 line 11). Washoe County bases this argument on *Argier v. Nevada Power Co.*, 114 Nev. 137 (Nev. 1998). In *Argier*, the Court found, in the context of a case where a power company sought to install power lines that a claim for inverse condemnation does not run with the land, but vests at the time the land is entered. i.e. when the power company physically invaded the land to install the power lines. *Id.* at 140.

29. According to Exhibits 2-12 attached to Washoe County's Motion, approval of the building plans for Lancer Estates occurred from June of 1984 to November of 1990 (Motion page 8 line 17). Washoe County's argument on this point assumes that the cause of action in this matter accrued at the point Washoe County actually approved the building permits for Lancer Estates, not when the Plaintiffs actually began to experience flooding on their land. Washoe County's Motion does not address the "entry" standard in the *Argier* case, i.e. the taking of the Plaintiff's Property vested due to a physical invasion of storm waters.

30. As indicated in Exhibit 1 to Washoe County's Motion, John and Melissa Fritz acquired the Subject Property on August 24<sup>th</sup> of 2001. According to the sworn affidavit executed by Mr. John Fritz, attached hereto and included herein as Exhibit 1, which details in a general way his personal experience with the flooding on his Property, year upon year the flooding and erosion at 14400 Bihler Rd. gets worse. Mr. Fritz's affidavit also states that since 2002, upon any significant rain event the south end of 14400 Bihler Rd. further erodes and/or flooding occurs on the Property. Thus, the first indications of physical invasion began in 2002, this matter was filed within the applicable fifteen-year limitation period, and after the Plaintiff's purchased the Property in August of 2001. (See *White Pine Lumber Co. v. Reno*, 106 Nev. 778, 779 (Nev. 1990) for discussion of the fifteen year limitations period)

31. Examination of Exhibit 21 reveals that although Washoe County accepted



1 dedication of the streets for Lancer Estates units 1 through 8 and 11 before the Plaintiffs  
2 purchased the Property, acceptance for units 9 and 10 of Lancer Estates occurred on  
3 October 16, 2001 (See Exhibit 21 at Bates No. 383-384), and thus took place after the  
4 purchase of the Property by the Plaintiffs in August of 2001. Exhibit 20 also reveals that  
5 the final map for Monte Rosa Unit 1 was recorded on December 13, 2005, (See Exhibit 20  
6 at Bates No. 358) and the final map for Monte Rosa Unit 2 was recorded on November 30,  
7 2007 (See Exhibit 20 at Bates No. 362), well after the Plaintiffs acquired the Property and  
8 well within the fifteen-year limitations period. Presumably, Washoe County may accept  
9 dedication of the facilities within Monte Rosa at its option after construction of Monte  
10 Rosa has been completed.

11 32. The damages suffered by the Plaintiffs in this matter are both cumulative, i.e.  
12 they result from the gradual alteration of the drainage above and through the Property  
13 caused by the gradual development of Lancer Estates and Monte Rosa over a period of  
14 approximately 30 years (from 1984 to the present), and they are continuing, i.e. every time a  
15 rain storm of sufficient force occurs in the general area the Fritz's can expect that their  
16 property on Bihler Rd. will be flooded. The Plaintiff's expert report in Exhibit 2 confirms  
17 these facts.

18 33. The Supreme Court has addressed the issue of damages and periods of limitation  
19 in an inverse condemnation case where flood damages are continuing and cumulative and  
20 the precise moment of taking cannot reasonably be determined. The Court concluded that  
21 the choice to forgo the condemnation process by the Government should not force a  
22 property owner into premature litigation, and that the Court should avoid procedural  
23 rigidities:

24 The Government could, of course, have taken appropriate proceedings to  
25 condemn as early as it chose both land and flowage easements. By such  
26 proceedings it could have fixed the time when the property was "taken."  
27 The Government chose not to do so. It left the taking to physical events,  
28 thereby putting on the owner the onus of determining the decisive  
moment in the process of acquisition by the United States when the fact of  
taking could no longer be in controversy. *United States v. Dickinson*, 331 U.S.  
at 747-748 (U.S. 1947)

The Court held:



1 When dealing with a problem which arises under such diverse  
2 circumstances procedural rigidities should be avoided. All that we are here  
3 holding is that when the Government chooses not to condemn land but to  
4 bring about a taking by a continuing process of physical events, the owner  
is not required to resort either to piecemeal or to premature litigation to  
ascertain the just compensation for what is really "taken." *Id. at* 749

5 34. Because the flooding on the Plaintiff's Property is continuing in nature, and the  
6 fact that the gradual nature of the development of Lancer Estates and Monte Rosa makes  
7 determining the exact date on which "physical invasion" of the Property that amounted to a  
8 taking occurred extremely difficult if not impossible to determine, the Court should not  
9 accept Washoe County's position that the taking occurred in the date that Washoe County  
10 approved tentative subdivision maps (Motion at page 8 line 20). Such a finding would be  
11 clearly inconsistent with the rulings in *Argier* and *U.S. v. Dickinson*.

12 **Washoe County has Accepted Dedication of the streets and storm drainage**  
13 **system in Lancer Estates, and may accept dedication of the streets and storm**  
14 **drainage system in Monte Rosa at any time.**

15 35. Washoe County's Motion argues that Washoe County did not accept the storm  
16 drains and/or detention ponds in the Monte Rosa subdivision (Motion at page 9 line 5),  
17 and thus it has not condemned the Plaintiffs Property. As explained above, pursuant to  
18 NRS 278.390, title passed to Washoe County for the facilities in Monte Rosa upon approval  
19 of the final maps. Washoe County may accept dedication of the facilities in Monte Rosa at  
20 any time at its option. Because development at Monte Rosa is ongoing, Washoe County  
will likely not accept dedication until the development has been completed.

21 **Yox v. City of Whittier**

22 36. Washoe County cites the California case *Yox v. City of Whittier*, 182 Cal. App. 3d  
23 347 (Cal. App. 2d Dist. 1986) in support of the proposition that approval of a subdivision  
24 map does not constitute such an acceptance of a pathway even when the street has been  
25 offered therein for dedication to the public use by the private owner. The Plaintiff's are not  
26 solely complaining about the specific single act of approval of the subdivision plat maps for  
27 Lancer Estates and Monte Rosa, but rather referred to the general act of approving plans,  
28 and of Washoe County's substantial involvement of the development of Lancer Estates and  
Monte Rosa. In fact, the Court in *Yox* found that utilities and drainage systems, when



1 accepted and approved by a municipality become public improvements and part of its  
2 system of public works. *Id.* at 354. The *Yox* Court further stated the following in analyzing  
3 *Sheffert v. County of Los Angeles*, 3 Cal.App.3d 720 (1970):

4 In *Sheffert*, the court held that the county was not shielded from liability for  
5 damages from overflow of surface water from public streets onto  
6 plaintiff's property where the public entity had approved the plans for the  
7 adjacent subdivision, including its drainage system, and had accepted the  
8 streets of the subdivision. *Sheffert stands for "[the] well-established rule*  
9 *[imposing] inverse condemnation liability on a public entity which has*  
10 *approved and accepted, for a public purpose, work performed by a*  
11 *subdivider or private owner of property."* *Yox v. City of Whittier*, 182 Cal.  
12 App. 3d 347, 353 (Cal. App. 2d Dist. 1986). [*Emphasis added*]

13 37. Exhibits 20 and 21 clearly show that Washoe County approved and accepted, for  
14 public use, work performed by the developers of Lancer Estates and Monte Rosa. Pursuant  
15 to the standard in *Yox*, because Washoe County participated in the development of Lancer  
16 Estates and Monte Rosa far beyond the approval of plat maps as described above, Washoe  
17 County is liable to the Plaintiffs for the taking of their Property.

18 **Washoe County's involvement in the development of Lancer Estates and**  
19 **Monte Rosa has been substantial and is not limited to approval of subdivision maps**

20 38. Washoe County's Motion argues that approval of a final map does not create  
21 municipal liability for a taking by inverse condemnation (Motion at age 10 line 4). The  
22 Plaintiffs allege that Washoe County's involvement in the development of Lancer Estates  
23 and Monte Rosa is substantial, and goes for beyond simply approving subdivision maps.

24 39. Review of the provisions of relevant statutes and the Washoe County  
25 Development Code related to approval of tentative and final subdivision maps and  
26 development standards belie the necessary implication of Washoe County's argument that  
27 approval of plans to build a subdivision does not constitute substantial involvement in the  
28 development of private lands, as development of such lands is essentially an  
implementation of Washoe County's Master Plan: NRS 278.0284 specifically requires that  
"any action" of a local government relating to development, zoning, the subdivision of land  
or capital improvements must conform to the master plan of the local government. Section  
110.602.05(a) of the Washoe County Development Code states that one of the three main  
purposes of the Subdivision Regulations in the Washoe County Development Code are:



1 “To implement the Washoe County Master Plan, including the area plans, and any specific  
2 plans adopted by the County.” Pursuant to Section 110.608.25, reproduced in pertinent part  
3 below, the Washoe County Planning Commission must make the following findings before  
4 approving a tentative map for a subdivision:

5 (a) Plan Consistency. That the proposed map is consistent with the  
6 Master Plan and any specific plan;

7 (b) Design or Improvement. That the design or improvement of the  
8 proposed subdivision is consistent with the Master Plan and any specific  
9 plan; and

10 (i) Dedications. That any land or improvements to be dedicated to the  
11 County is consistent with the Master Plan.

12 40. Further, the Storm Drainage Standards in Section 110.420.20(d) states the  
13 following:

14 (d) Natural Water Facilities. Development of property shall not adversely  
15 affect any natural drainage facility or natural water course, and shall be  
16 subject to the following provisions: (1) Natural facilities shall remain in as  
17 near a natural state as is practicable, with any modification proposed,  
18 including any erosion mitigating measures, addressed in the Drainage  
19 Report and drainage plans; and (2) Be in compliance with Development  
20 Code Article 418, Significant Hydrologic Resources.

21 While it is the case that the code provisions cited above have changed and evolved over the  
22 time that Lancer Estates and Monte Rosa have been built, and that it is likely that differing  
23 requirements were in place at different stages on the overall development of Lancer Estates  
24 and Monte Rosa, Nevada’s master planning system for the development of subdivisions in  
25 Washoe County requires intimate and substantial involvement of Washoe County in the  
26 development and execution of such projects. This involvement is detailed and  
27 demonstrated by the facts detailed above.

### 28 **Ullery v. County of Contra Costa**

41. Washoe County also cites the California case *Ullery v. County of Contra Costa*, 202  
Cal. App. 3d 562, 570 (Cal. App. 1st Dist. 1988) in support of the proposition that inverse  
condemnation liability will not lie for damage to private property allegedly caused by private  
development approved or authorized by the public entity, where the sole affirmative action  
was the issuance of permits and approval of the subdivision map. This argument is  
inapplicable to the case before the Court as: (1) Washoe County’s involvement in the



1 development of Lancer Estates and Monte Rosa was substantial as shown by the facts  
2 above, i.e. it did more and has done more than just approve the final subdivision maps, (2)  
3 Washoe County has accepted dedication of the facilities in Lancer Estates as shown in  
4 Exhibit 21, and (3) because there is a direct causal connection between the building of  
5 Lancer Estates and Monte Rosa and the damage suffered by the Plaintiffs, as described in  
6 the Affidavit of Clark Stoner, attached hereto as Exhibit 3. That is, by design, Washoe  
7 County permitted and required the developers to use the Plaintiff's Property for the very  
8 public use, as a floodway, for the stormwater from Lancer Estates and Monte Rosa. As the  
9 *Ullery v. County of Contra Costa* Court further found:

10           The public use or improvement need not be the sole cause of the  
11           property damage. *Liability in inverse condemnation may be shown  
12           where the public improvement was a substantial concurring cause of  
13           the damage.* *Id.* at 572. [*emphasis added*]

14           **Gutierrez v. County of San Bernardino**

15           42. Washoe County also cites *Gutierrez v. County of San Bernardino*, 198 Cal. App. 4th  
16           831 (Cal. App. 4th Dist. 2011) in support of the proposition that if an inverse condemnation  
17           claim were based solely on the allegation that the county owned the real property in  
18           question liability would not be imposed. (Motion at page 11 line 22). The Court in  
19           *Gutierrez* found that an action for inverse condemnation lies when there is actual physical  
20           injury to real property proximately caused by a public improvement as deliberately designed  
21           and constructed whether said physical injury is foreseeable or not. *Id.* at 837. The *Gutierrez*  
22           Court concluded that the public improvement in did not expose plaintiffs' properties to a  
23           risk of flooding that did not otherwise exist, and thus denied the claim for inverse  
24           condemnation.

25           43. The case at hand is clearly distinguishable from *Gutierrez* because the Plaintiffs  
26           have put forth the testimony of a highly qualified expert witness stating that the cause of the  
27           increased flooding on the Plaintiff's Property is the development of Lancer Estates and  
28           Monte Rosa. (See Exhibit 2) Thus a genuine issue of material fact exists as to the cause of  
29           the increased flooding.

30           **Marilyn Froling v. Bloomfield Hills Country Club**

31           44. Washoe County also cites *Marilyn Froling Revocable Living Trust v. Bloomfield Hills*



1 *Country Club*, 283 Mich. App. 264 (Mich. Ct. App. 2009) in support of the proposition that if  
2 an inverse condemnation claim were based solely on the allegation that a local government  
3 approved constructing plans, that liability would not be imposed. (Motion at page 12 line 2).  
4 This case is also not analogous to the fact pattern that the Plaintiff's present to the Court  
5 herein, i.e. the Plaintiff's allegations are more than just simply that Washoe County  
6 approved the building plans for Lancer Estates and Monte Rosa. The exhibits presented  
7 above show that Washoe County was directing the development of these subdivisions by its  
8 planning, direction and control over the developers to the detriment of the Plaintiff's  
9 Property according to Washoe County's Mater Plan and derivations thereof. As such  
10 Washoe County abused its legitimate powers in affirmative actions directly aimed at the  
11 Plaintiff's Property.

11 **The Plaintiff's have made a prima face case for a taking by inverse**  
12 **condemnation that is supported by the facts presented herein**

13 45. Washoe County's Motion argues that the Plaintiff's misconstrue the difference  
14 between inverse condemnation and nuisance, and that no evidence exists that shows that a  
15 taking has occurred or that the taking was for the benefit of the public. (Motion at page 13  
16 line 5). The evidence above, including but not limited to the report by the Plaintiff's expert  
17 in Exhibit 2, details how the taking has occurred, i.e. the Plaintiff's Property has been  
18 physically invaded by additions of water that destroy or impair its usefulness as a result of  
19 the development of Lancer Estates and Monte Rosa. The "public use" aspect of the taking  
20 is demonstrated by Exhibit 21, in which Washoe County specifically acknowledges that the  
21 infrastructure at issue is for public use.

22 46. In the leading case on inverse condemnation in Nevada, the Nevada Supreme  
23 Court has determined that:

24 It has long been established that a taking occurs "where real estate is  
25 actually invaded by superinduced additions of water . . . so as to  
26 effectually destroy or impair its usefulness," *Pumpelly v. Green Bay Company*,  
27 80 U.S. (13 Wall.) 166, 181 (1871), and the result is no different when  
28 property is subjected to intermittent, but inevitable flooding which causes  
substantial injury, *United States v. Cress*, 243 U.S. 316, 328 (1917).  
Footnote 3 in *County of Clark v. Powers*, 96 Nev. 497, 502 (Nev. 1980)

47. Nevada has rejected concept of limited sovereign immunity and follows the view



1 in a majority of jurisdictions, i.e. that a governmental entity's substantial involvement in the  
2 development of private lands, which unreasonably injures the property of others, is  
3 actionable. *Id.* at 505. The facts described in *Clark County v. Powers* are almost identical to  
4 the facts presented in this case as shown above, i.e. where the development of land resulted  
5 in the alteration, diversion, channeling, and acceleration of rain and floodwaters onto the  
6 Plaintiff's Property.

7 48. The *Clark County v. Powers* Court found that Clark County was liable in inverse  
8 condemnation because Clark County participated actively in the development of the land,  
9 both by its own planning, design, engineering, and construction activities and by its  
10 adoption of the similar activities of various private developers as part of the Clark County's  
11 master plan for the drainage and flood control of the area. *Id.* at 500. The evidence above  
12 demonstrates the same, i.e. that Washoe County, as part of various iterations of its master  
13 plan and flood control planing, participated actively by directing how the floodwaters from  
14 Lancer Estates and Monte Rosa would flow into Whites Creek Channel #4 and across the  
15 Plaintiff's Property.

16 49. The *Clark County v. Powers* Court also found that the economic costs incident to  
17 the expulsion of surface waters in the transformation of rural and semirural areas into urban  
18 and suburban communities should not be borne solely by adjoining landowners, which is  
19 precisely what has happened to the Plaintiff's Property as demonstrated by the evidence  
20 above. *Id.* at 501. The facts described above show that Washoe County participated actively  
21 in the development, planning, and design of Lancer Estates and Monte Rosa. Further,  
22 Washoe County adopted the activities of the developers of Lancer Estates and Monte Rosa  
23 by accepting dedication of built facilities and by taking title to said dedicated facilities per  
24 NRS 278.390 upon approval of the final maps for Lancer Estates and Monte Rosa.

### 25 **Conclusion**

26 50. The evidence described above shows that since approximately 1984, Washoe  
27 County substantially participated in the planning and development of and has approved the  
28 final maps for, and had accepted dedication of significant portions of the housing  
developments located within Washoe County commonly known as Lancer Estates and  
Monte Rosa. The evidence described above also shows that the development Lancer



1 Estates and Monte Rosa by Washoe County and various third parties has caused alteration,  
2 diversion, channeling, and acceleration of rain and flood waters onto the Plaintiff's Property  
3 by substantially increasing the amount of water and accelerating the flow of that water  
4 across the natural drainage commonly known as Whites Creek No. 4, which crosses the  
5 Plaintiff's Property. The evidence also shows that Washoe County has known that Whites  
6 Creek Channel #4 has been a "flood hazard area" since 1984, and despite this fact, has  
7 allowed, directed and participated in floodwater management and development of  
subdivisions that have increased the flow of water across the Plaintiff's Property.

8 51. The evidence detailed above also shows that the modern development process of  
9 subdivisions in Washoe County is highly regulated and is one in which developers work  
10 hand in hand and at the direction of Washoe County's officials according to Washoe  
11 County's Master Plan. The evidence presented above belies Washoe County's assertions  
12 that its involvement in the development of Lancer Estates and Monte Rosa was minimal or  
13 non-existent, or just consisted of approving construction plans. The evidence also shows  
14 that Washoe County now owns much of the infrastructure that is causing the flooding on  
15 the Plaintiff's Property. According to the law detailed below in response to Washoe  
16 County's Motion, Washoe County is answerable at law for taking the Plaintiffs Property for  
17 the "public use" as a floodplain for the benefit of their upstream neighbors without  
18 providing compensation for that use.

19 WHEREFORE, the Plaintiff respectfully requests that Washoe County's Motion to  
20 For Summary Judgment be denied and the Court permit this matter to proceed to trial on  
21 the merits.

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**NRS 239B.030(4) AFFIRMATION**

Pursuant to NRS 239B.030 as well as Rule 10 of the Washoe District Court Rules, the undersigned hereby affirms that this document does not contain the social security number of any person.

Respectfully submitted this Friday, February 13, 2015.

By: Luke A. Busby

Luke Busby, Esq.  
216 East Liberty St.  
Reno, NV 89501  
775-453-0112  
luke@lukeandrewbusbyltd.com  
*Attorney for John and Melissa Fritz*

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day served the foregoing document upon the following parties by electronic service to:

Washoe County DA's Office  
Attn: Michael Large, Esq.  
Washoe County District Attorney Civil Div.  
P.O. Box 11130  
Reno, NV 89520

Respectfully submitted this Friday, February 13, 2015.

Luke A. Busby  
Luke Busby



## EXHIBIT LIST

1. Affidavit of John Fritz
2. Channel Study By Clark Stoner
3. Clark Stoner Affidavit
4. June 3, 1990 Letter
5. July 3, 2008 letter from Washoe County's Department of Public Works
6. Chap. 4 Washoe County Regional Water Plan
7. Lancer Estates Tentative Map
8. Monte Rosa Final Sub Map
9. Cella Bar Study
10. Lancer Estates Units 6 and 7 Hydro Study
11. Lancer Estates Units 8 and 9 Hydro Study
12. Lancer Estates Unit 9 Hydro Study
13. Lancer Estates Unit 10 Hydro Study
14. Lancer Estates Unit 11 Hydro Study
15. Monte Rosa Unit 3A Hydro Study
16. Monte Rosa Unit 3B Hydro Study
17. Monte Rosa Phase 1 Hydro Study
18. Monte Rosa Phase 2 Hydro Study
19. June 13 1996 NDOT Letter
20. Recorded Final Maps for Lancer Estates and Monte Rosa
21. Acceptance of Dedication for Lancer Estates
22. Map Showing County Roads
23. Map Showing Whites Creek
24. Image of Bihler Rd. Property



# Exhibit 1

# Exhibit 1



**AFFIDAVIT OF JOHN FRITZ**

STATE OF Nevada )  
 ) ss:  
COUNTY OF Washoe )

I, John Fritz, do hereby swear and affirm under penalty of perjury that each and every assertion contained within this affidavit are true.

1. I am the affiant and I am competent to make this testimony;
2. I have personal knowledge of each and every fact attested to herein;
3. That I am one of the Plaintiffs in the action against Washoe County in the Second Judicial District Court designated as Docket No. CV13-00756.
4. That in 2001 I, along with my wife Melissa Fritz, purchased 14400 Bihler Rd.
5. That I built a home with two adjoining garage structures at 14400 Bihler Rd.
6. That in 2002, I was able to easily walk across Whites Creek No. 4, which runs over the south end of 14400 Bihler Rd. Since that time, Whites Creek No. 4 has increased significantly in size and depth. There is currently an approximately six foot deep and approximately twenty foot wide cut in Whites Creek No. 4 at the south end of 14400 Bihler Rd.
7. That since 2002, upon any significant rain event the south end of 14400 Bihler Rd. further erodes and/or flooding occurs on the property.
8. That in December in 2008, I applied for a grading permit from Washoe County to build a ditch to control flooding at 14400 Bihler Rd.
9. That I had plans to further develop 14400 Bihler Rd. but has been unable to do so because of flooding.
10. That year upon year the flooding and erosion at 14400 Bihler Rd. gets worse.
11. On August 9, 2014, I took the photographs marked as Washoe v. Fritz First Supp. 0001-0005, which show flooding at and around 14400 Bihler Rd.

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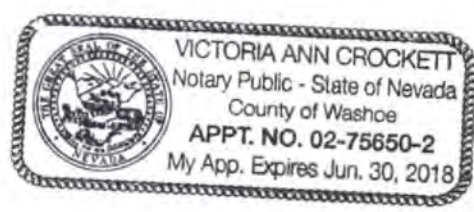
12. If I were to give testimony in open court, it would be substantively the same as that set forth hereinabove.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
John Fritz

SUBSCRIBED and SWORN to before me  
this 12 day of February, 2015

Victoria Ann Crockett  
NOTARY PUBLIC







FRITZ v WASHOE FIRST SUPP. 000001

Fritz v. Washoe Opp to MSJ 000003

Fritz v. Washoe County - Case No. 67660 - Bates No. 000125









FRITZ v WASHOE FIRST SUPP. 000003

Fritz v Washoe Opp to MSJ 000005

Fritz v. Washoe County - Case No. 67680 - Order No. 000127





FRITZ v WASHOE FIRST SUPP. 000004

Fritz v. Washoe Opp to MSJ 000006

Fritz v. Washoe County - Case No. 67660 - Bates No. 000128





FRITZ v WASHOE FIRST SUPP. 000005

Fritz v. Washoe Opp to MSJ 000007

Fritz v. Washoe County - Case No. 67660 - Bates No. 000129



Exhibit 2

Exhibit 2



# CHANNEL STUDY

## *Whites Creek Channel #4*

Lands of John and Melissa Fritz  
Doc # 2589425, Recorded Aug. 24, 2001  
14400 Bihler Road  
Reno, Nevada  
APN: 128-301-024



**PREPARED FOR**  
John and Melissa Fritz  
14400 Bihler Road  
Reno, NV 89511

**October 17, 2014**

**PREPARED BY**  
Clark E. Stoner, P.E., P.L.S  
198 West Spain Street  
Sonoma, CA 95476  
stoner@cfsengineering.com  
tel: 707.996.8449



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## 1.0 INTRODUCTION

Following report of flood hazard concerns, and past flooding incidents, on the Fritz Parcel,<sup>1</sup> Clark E. Stoner, a California registered professional civil engineer and land surveyor, was retained by John and Melissa Fritz to conduct an investigation of the stormwater drainage channel upland from and crossing the “Subject Parcel”, or “Parcel”.

This study examines the historical development surrounding the Parcel and illustrates how that development has changed the course of upland runoff, altered the behavior of flows through the channel upland from and crossing the Parcel, and as a result has exacerbated the flood hazard on the Parcel.

## 2.0 HISTORICAL BACKGROUND

Whites Creek drains the easterly slope of the Mount Rose Wilderness between Snowflower Mountain and Mount Rose, each over 10,000 feet in elevation.<sup>2</sup> About one-half mile upland from and west of the Fritz Parcel, there is an old concrete diversion structure located within the bed of Whites Creek, which splits creek flows equally into two branches.<sup>3</sup> Just below the concrete diversion structure, the southerly of the two branches forks into two channels, the southernmost fork being an overflow channel that experiences upland flow only when the parent channel overflows its southern bank.<sup>4</sup> Each of the two forks comprising the southern branch of Whites Creek below the concrete diversion structure are shown as “intermittent streams” on the 1982 United States Geological Survey (USGS) map of the Mt. Rose NE Quadrangle.<sup>5</sup>

The southernmost channel, crossing the Parcel, has historically functioned as an ephemeral stream<sup>6</sup> carrying flows from upper Whites Creek only when the creek reached a certain flood stage.<sup>7</sup> The ephemeral nature of this southernmost channel is evident because no vegetation is visible along its banks as shown on the aerial photographs reviewed from years 1939<sup>8</sup> and 1966,<sup>9</sup> whereas vegetation is visible on the banks of its parent fork. Lack of vegetation is an indication that there was no high groundwater table beneath the channel crossing the Parcel, and that there has historically been no water source in the channel to sustain vegetative growth within or near

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<sup>1</sup> The Subject Parcel, or Fritz Parcel, is owned by John and Melissa Fritz. See Grant Deed: Document No. 2589425, recorded August 24, 2001, Official Records of Washoe County.

<sup>2</sup> See the 2009 map of the Mount Rose Wilderness, published by the US Forest Service.

<sup>3</sup> This information is based on field observations by Clark E. Stoner in September, 2013.

<sup>4</sup> Ibid. This “southernmost fork” crosses the Subject Parcel, and is the focus of this study.

<sup>5</sup> The Mt. Rose NE Quadrangle Map (Quad Map) was published by the USGS in 1969, and then photo-revised in 1982. The channels described are shown on the Quad map as blue dashed and triple dot lines, characteristic of Intermittent Streams. The Washoe County Development Code, Division Nine, Article 902, Section 110.902.15 defines an intermittent or seasonal stream as, “*Streams that flow only at certain times of the year when it receives water from springs, rainfall, or from surface sources such as melting snow.*” The channels are shown as thin blue lines on the later 1994 Quad map, also indicating Intermittent Streams.

<sup>6</sup> The Washoe County Development Code, Division Nine, Article 902, Section 110.902.15 defines an ephemeral stream as, “*Streams that flow only in direct response to precipitation and whose channel is at all times above the water table.*”

<sup>7</sup> The southernmost channel described is visible on the U.S. Forest Service’s June 6, 1939 aerial photograph 18-078, archived by the Nevada Bureau of Mines and Geology.

<sup>8</sup> Ibid.

<sup>9</sup> USGS aerial photo dated May 17, 1966 obtained from earthexplorer.usgs.gov, File No. AR1VBMQ00010008.



the channel banks during the dry season, following the spring snowmelt. Furthermore, it was noted in 1986 that the southernmost branch of Whites Creek, the channel that crosses the Subject Parcel, was blocked at its mouth with a “large area fill.”<sup>10</sup>

In August of 1984, Washoe County adopted Ordinance No. 616, the Flood Hazard Reduction Ordinance, adopting all, or most, of the provisions of the Federal Emergency Management Agency’s (FEMA) “*Flood Insurance Study for Washoe County, Nevada, Unincorporated Areas*,” dated February 1, 1984.<sup>11</sup> The southernmost channel of Whites Creek, the channel upland from and crossing the Subject Parcel, was determined to be a “Flood Hazard Area,” according to FEMA’s 1984 Flood Insurance Rate Map (FIRM).<sup>12</sup> Prior to 1984, there had been no development near the southernmost channel of Whites Creek and the Subject parcel.<sup>13</sup> In the area now occupied by Lancer Estates, aerial photographs show that pre-development runoff from the Lancer Estates area entered the southernmost channel of Whites Creek several hundred feet downhill and east of the Subject Parcel.<sup>14</sup> The limits of the FEMA floodplain boundary for the southernmost channel of Whites Creek would remain basically unchanged from its original 1984 location through the 1990s and early 2000s.<sup>15</sup> In 2009, FEMA issued a new FIRM, which showed that the floodplain along the southernmost channel of Whites Creek grew wider and the majority of the floodplain was located further north.<sup>16</sup>

In September 1985, Washoe County approved plans for the development of Lancer Estates Unit 2.<sup>17</sup> Plans for Lancer Estates Unit 2 called for the construction of improvements on Spezia Way, or Spezia Road, which is present day Bihler Road, as it crossed the FEMA floodplain along the

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<sup>10</sup> Page 5 of Summit Engineering Corporation’s September, 1986, Hydrology Analysis of the Double Diamond Ranch, states, “*The south branch [of Whites Creek], unknown name, is filled at the mouth with a large area fill.*” Nothing further was discovered concerning the origin of said area fill.

<sup>11</sup> See Ordinance No. 616, passed by the Board of Commissioners on July 24, 1984, and effective August 1, 1984. The Ordinance called for development restrictions within mapped floodplains.

<sup>12</sup> A copy of the 1984 FIRM (noted as *FEMA MAP PANEL #1501*) was included as Figure 8 in Summit Engineering Corporation’s September, 1986, Hydrology Analysis of the Double Diamond Ranch. The channel upland from and crossing the Subject Parcel was designated to be in Special Flood Hazard Area, Zone A. The mapped floodplain shows the limits of the “*base flood*,” which is the “*flood having a 1 percent chance of being equaled or exceeded in any given year.*” See Ordinance No. 616, Section 100.605.3.

<sup>13</sup> See aerial photographs from 1939 (Note 7), 1966 (Note 9), 1972 (Photo #454 dated June 1972, available at the Great Basin Science Sample and Records Library, Desert Research Institute), and 1979 (Photo #0-24 dated March 9, 1979, available at the Great Basin Science Sample and Records Library, Desert Research Institute), and 1984 (Photo #0-28 dated March 27, 1974, available at the Great Basin Science Sample and Records Library, Desert Research Institute). The 1984 aerial photograph shows what appears to be a fire break, or road, cut through the subject parcel and the southernmost channel of Whites Creek. Lands west of the fire break, or road cut, appear to be denuded of vegetation, possibly the result of a recent wildfire.

<sup>14</sup> See Note 13. The aerial photographs show that pre-development runoff, including the areas of present day Lancer Estates, Monte Rosa, and portions of Mount Rose Highway, concentrated into rivulets shown on and crossing present day Lancer Estates in an easterly downhill direction. These rivulets continued easterly across the northwest portion of present day Sterling Ranch and entered the southernmost channel of Whites Creek at a location now comprised of an engineered riprap lined trapezoidal channel.

<sup>15</sup> Comparing FEMA’s 1984 FIRM (Note 12) with the 1994 FIRM (Map No. 32031C3170 E, effective September 30, 1994), it is evident that the limits of the floodplain, or Flood Hazard Area, had basically remained unchanged for the Lancer Estates reach.

<sup>16</sup> *Ibid.* See FIRM No. 32031C3245G, revised March 16, 2009.

<sup>17</sup> Development plans for Lancer Estates Unit 2, prepared by Churn, Fittinghoff & Associates, were approved by Washoe County September 24, 1985. It is not known whether hydrology reports associated with Lancer Estates Units 2 through 5 are in existence.



northerly edge of the subdivision.<sup>18</sup> These improvements included the placement of a 48-inch diameter concrete culvert at the lowest elevation of the Channel, under Spezia Road, and the placement of about 3 feet of fill over the top of the culvert and along the bed of Spezia Road as the road crossed the floodplain and continued to the northerly boundary of the subdivision.<sup>19</sup> Plans also indicate that the FEMA floodplain was nearly 120 feet wide as it crossed Spezia Road.<sup>20</sup>

Later phases of Lancer Estates, Units 3 through 10, were approved and constructed between 1991 and 2001.<sup>21</sup> Development plans for Lancer Estates Units 3, 4 and 5 indicate that the overall strategy for drainage control within Lancer Estates was to intercept runoff from, and grade over, the long pre-existing drainage rivulets crossing the development,<sup>22</sup> and convey the drainage underground north into the southernmost channel of Whites Creek, upland from the Subject Parcel.<sup>23</sup> Generally neglected from the Lancer Estates development documents reviewed during this study was discussion, or concern, about the potential downhill impacts associated with

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<sup>18</sup> See Notes 5, 6 and 11. Because of the Creek's "intermittent stream" designation as on the USGS maps, altering the watercourse may have required permits from the State of Nevada. Ordinance 616, Section 100.650.2 states, "*(t)he owner or developer shall obtain a permit from the State of Nevada Division of State Lands and any other applicable agency before altering or relocating any waterway under the jurisdiction of such agency. This permit will be provided to the department of public works.*" It is unknown if the developer of Lancer Estates Unit 2 obtained state permits and provided them to Washoe County, or if state permits were required.

<sup>19</sup> Ibid. See Note 17. See Sheets 2 of 8, 3A of 8, and 5 of 8. Field observations indicate that these improvements were generally constructed according to plan.

<sup>20</sup> See Notes 15, 16, 17 and 19. Floodplain width was estimated based on scaling the plans. The 2009 FIRM shows the floodplain to be about 225 feet wide, based on scaling the FIRM.

<sup>21</sup> See Record Drawings for Lancer Estates Unit 3, prepared by Churn, Fittinghoff & Associates, dated October 29, 1991. Also see development plans for Lancer Estates Unit 4 prepared by Odyssey Engineering, Inc., labeled "As-Built" and dated May 18, 1993. Also see development plans for Lancer Estates Unit 5 prepared by Odyssey Engineering, Inc., labeled "As-Built" and dated July 27, 18, 1994. Also see Storm Drain Analysis for Lancer Estates Units 6 and 7, prepared by Odyssey Engineering, Inc., signed and dated April 24, 1994. Also see Hydrology Report for Lancer Estates Unit 8 & 9, prepared by Odyssey Engineering, Inc., and dated April 1995. Also see Hydrology Report for Lancer Estates Unit 9, prepared by FPE Engineering & Planning, and dated September 8, 1997. Also see development plans for Lancer Estates Unit 9, prepared by FPE Engineering & Planning, signed and dated September 1997 and June 1999. Also see Hydrology Report for Lancer Estates Unit 10, prepared by Odyssey Engineering, Inc., revised September 2, 1999. Also see development plans for Lancer Estates Unit 10, prepared by Odyssey Engineering, Inc., labeled "As-Built" and dated September 6, 2001.

<sup>22</sup> See Note 14.

<sup>23</sup> See Note 21. Plans show three outfalls discharging runoff from Unit 3 and future phases into the southernmost channel of Whites Creek, uphill from the Subject Parcel. Storm drain infrastructure from Lancer Estates Units 4, 8 and 10 would later tie into the outfalls constructed under Lancer Estates Unit 3. Further uphill, a large diameter storm drain outfall was constructed as part of Lancer Estates Unit 5 to capture runoff from Unit 5 and later Units 6 and 7, which would also capture runoff from later Monte Rosa. Lancer Estates Unit 10 also included provisions to capture runoff from Mount Rose Highway (State Route 431), as requested in the June 13, 1996 Nevada Dept. Transportation letter to Washoe County Engineer David Price. During the phased construction, temporary improvements were built to intercept upland runoff from still undeveloped phases, or Units, and convey it through the new storm drain system to discharge into the southernmost channel of Whites Creek, upland from the Subject Parcel. Lancer Estates Unit 9 did not drain into the southernmost channel of Whites Creek, but drained into Lancer Estates Unit 1, which drained into the southernmost channel of Whites Creek downhill from the Subject Parcel.



diverting runoff from Lancer Estates, and increasing discharges into the southernmost channel of Whites Creek.<sup>24</sup>

Responding to active and future development occurring in the area of lower Whites Creek,<sup>25</sup> Washoe County commissioned a Preliminary Basin Management Study, which was published in August 1994,<sup>26</sup> to identify flood hazards and to “develop interim policies for new development and infrastructure improvements within the watershed.”<sup>27</sup> The Study discussed the probable distribution of floodwaters below the concrete diversion structure,<sup>28</sup> and pointed out that “(p)erhaps the most significant variable that limits the predictability of the distribution is the potential occurrence of debris flow within Whites Creek.”<sup>29</sup> Evidence of prior debris flows was reported to be “readily identifiable in the field” and was “characterized by numerous residual large boulders that have been transported from the defined channel upstream of Shadowridge Park<sup>30</sup> to various locations along channels and other areas downstream within the lower Whites Creek watershed.”<sup>31</sup> Furthermore, the Study warned that the “occurrence of a debris flow will result in a slug of concentrated boulders, sediment and vegetation moving down the defined channel to be distributed at varying locations downstream of the defined channel as flow depth and velocities are diminished through expansion of the flow width.”<sup>32</sup> Among several “problem areas” noted in the Study as having flooding potential, included were those developed Lancer Estates parcels for which Whites Creek Channel #4 passed through.<sup>33</sup>

By the time the Preliminary Basin Management Study was released, improvements for Lancer Estates Units 2 through 5 were nearly complete,<sup>34</sup> which laid the basic storm drain infrastructure groundwork for the development of later Lancer Estates Units 6 through 10.<sup>35</sup> As the flood hazard potential of Whites Creek Channel #4 was becoming more readily understood,<sup>36</sup> and

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<sup>24</sup> See Notes 14 through 23.

<sup>25</sup> See Notes 3 and 4, and accompanying discussion. Lower Whites Creek generally includes the area comprising the four channels below, and including, the concrete diversion structure.

<sup>26</sup> As-built plans for Lancer Estates Unit 5 are dated July, 27, 1994. Improvements for Lancer Estates Units 2 through 5, those phases of development for which the southernmost channel of Whites Creek passed through, were complete, or nearly complete, by the time the Study was released.

<sup>27</sup> See the August 17, 1994 “Preliminary Whites Creek Basin Management Study (Final Report)”, prepared by Cella Barr Associates. The Study discussed in detail the southernmost channel of Whites Creek, identified as Whites Creek Channel #4.

<sup>28</sup> See Notes 3 and 4.

<sup>29</sup> See Note 27. See Preliminary Whites Creek Basin Management Study, at page 12.

<sup>30</sup> Shadowridge Park is presently known as Whites Creek County Park.

<sup>31</sup> See Note 27.

<sup>32</sup> Ibid. It would have been reasonable to conclude that a slug of concentrated boulders, sediment and vegetation moving down the defined channel, or debris flow, heading toward the existing 48-inch diameter culvert and built up road, or Bihler Road, would have resulted in washing out the road.

<sup>33</sup> See Note 27. See Preliminary Whites Creek Basin Management Study, at pages 14 and 15. The Subject Parcel was not mentioned in the Study, likely because there was no development on the parcel at the time.

<sup>34</sup> See Notes 21, 23 and 27.

<sup>35</sup> See Note 21. The April 1994 Storm Drain Analysis for Lancer Estates Units 6 & 7 briefly acknowledged a draft version of the Preliminary Basin Management Study (see Note 27) and, at Page 4, noted that the “construction of [Lancer Estates] Units 2 and 3 has blocked the natural drainage path from the westerly part of the site to Drainage Channel No. 4. The drainage facilities that were constructed with those units have a limited capacity. Therefore, the storm drain system in Units 5, 6 and 7 has been designed to intercept much of the Westerly site drainage and transport it to Drainage Channel No. 4.”

<sup>36</sup> See Notes 11 and 27.



development of Lancer Estates Units 6 and 7 continued,<sup>37</sup> studies were under way for the future construction of Sterling Ranch, just downhill from and east of the Subject Parcel.<sup>38</sup> The Sterling Ranch Floodplain Mapping Study based its hydraulic criteria on a draft version of the Preliminary Basin Management Study,<sup>39</sup> and proposed the construction of a large trapezoidal channel to capture upland runoff from Whites Creek Channel #4 and Lancer Estates,<sup>40</sup> and convey it through the Sterling Ranch subdivision. The hydraulic connectivity of Whites Creek Channel #4, between the concrete diversion structure<sup>41</sup> and the westerly entrance into Sterling Ranch, had apparently become more fully understood, and due to the anticipation of floodwaters overtopping the Channel banks,<sup>42</sup> the Floodplain Mapping Study recommended the construction of a large flared inlet configuration to capture widespread floodwaters into the Sterling Ranch flood control channel.<sup>43</sup> By 1999, the as-constructed inlet flared to the north, terminating nearly directly east of the subject Parcel's northern boundary, and its width nearly encompassed the length of the Subject Parcel's easterly boundary, or 330 feet, located approximately 330 feet to the west.<sup>44</sup>

Little or nothing was mentioned in the Preliminary Basin Management Study,<sup>45</sup> or the Sterling Ranch Floodplain Mapping Study,<sup>46</sup> explaining why the flared inlet into the Sterling Ranch flood control channel extended so far to the north.<sup>47</sup> A study of the improvement plans for Lancer Estates Units 2 through 4, in conjunction with aerial photograph review,<sup>48</sup> reveals that grading improvements, including fill and riprap placement, in several instances encroached into the

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<sup>37</sup> See Note 35. Final maps for Lancer Estates Units 6 and 7 were recorded May 18, 1994 and September 22, 1994, respectively.

<sup>38</sup> See Floodplain Mapping – Whites Creek Sterling Ranch Subdivision dated June 1994, and prepared by Kennedy/Jenks Consultants.

<sup>39</sup> Ibid. See Page 2.

<sup>40</sup> Ibid. See Page 3, which states: “(t)he proposed condition consists of a channel with an 8 foot bottom width, 2.5:1 side slopes and seven foot depth constructed from the inlet of the box culvert at Wedge Parkway to a point that is approximately 300 feet west of the project boundary (see attached grading plan). At this point a channel transition is shown on the grading plan to collect the shallow sheet flow and funnel it into the constructed channel. This channel is armored with rip-rap and has an access roadway on each side.” See improvement plan Sheets 3 of 16 and 12 of 16 for Sterling Ranch Subdivision – Unit 2, prepared by Churn, Fittinghoff & Associates, stamped “Preliminary”, dated June 16, 1994, and included with the Floodplain Mapping Study.

<sup>41</sup> See Notes 3 and 28, and accompanying discussion.

<sup>42</sup> See Note 38, and discussion of channel “breakout” on pages 5 and 6.

<sup>43</sup> See Note 38. Improvement plan Sheets 3 of 16 and 12 of 16 show the inlet to be nearly 400 feet wide at the westerly boundary of the subdivision, and the eastern most point of the unimproved Whites Creek Channel #4, and tapering into the Sterling Ranch flood control channel as the channel continues downhill through Sterling Ranch.

<sup>44</sup> Ibid. Review of Google Earth Pro aerial images dated September 5, 1999 and December 30, 2002 show the as-constructed flared inlet to be about 350 feet wide. The Study apparently anticipated a wide shallow overland flow, probably a debris flow. See Notes 27 through 32, and accompanying discussion.

<sup>45</sup> See Note 27.

<sup>46</sup> See Note 38.

<sup>47</sup> The 1984 FIRM (see Note 12), effective at that time, and soon to be released 1994 FIRM (see Note 15) showed that the floodplain boundaries generally followed the flow line of the Creek at near equal distances on each side.

<sup>48</sup> See Note 44. Google Earth Pro images were also reviewed for the following dates: June 30, 1994; November 1, 2004; October 28, 2006; August 25, 2007; July 10, 2010; June 14, 2011; August 28, 2012; June 15, 2013; and April 29, 2014. Some of the floodplain encroachments are visible in aerial photographs dating back to 1994. Most of the encroachments were discovered by scaling the improvement plans for Units 2 through 4 (see Notes 17 and 21) to estimate the location of the southerly floodplain boundary, and then using the measurement and analysis tools available in Google Earth Pro to compare the location of the as-constructed improvements against the location of the southerly floodplain boundary delineated on the plans.



floodplain delineated on the improvement plans.<sup>49</sup> These as-constructed improvements largely reinforced the southerly bank of Whites Creek Channel #4 and protected the Lancer Estates homes, bordering the Channel, from flooding.<sup>50</sup> Because the pre-existing southerly boundary of the Whites Creek Channel #4 floodplain had been altered, its southerly bank moved north toward the Channel flow line, engineers authoring the Sterling Ranch Floodplain Mapping Study appear to have reasonably concluded that floodwaters, and debris flows, escaping the shallow Channel banks would have been forced north, over the unimproved northerly Channel bank, having nowhere else to go as they continued downhill across the Subject Parcel, and other parcels, to Sterling Ranch. Furthermore, because the topography of the northerly side of Whites Creek Channel #4 was fairly uniform at the time, promoting an overland flow condition for floodwaters escaping the northerly bank of the Channel, the magnitude of the anticipated floodwaters appears to have justified the width of the flared inlet.<sup>51</sup> Finally, in 2009 FEMA redrew the floodplain boundaries for Whites Creek Channel #4 to, more or less, resemble the results of the 1994

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<sup>49</sup> See Notes 15, 17, 18, 21 and 49. Improvement plans for Unit 2 called for fill placement to the southerly edge of the floodplain and placement of riprap bank stabilization along the edge of the fill. The flow line of the floodplain shown on the plans was generally located equidistant from the floodplain boundaries. One notable encroachment example is Lot 15, east of and adjacent to present day Bihler Road, where fill and riprap placement presently extends nearly to the flow line of the Channel at the discharge of the 48-inch culvert (see discussion accompanying Notes 18 and 19). The Grading Plan for Unit 2 (Sheet 5 of 8) did not include notes pertaining to restrictions on constructing within the floodplain, but the Official Plat, included with the plans, showed the floodplain and included the note, “no building”, within the lines indicating the floodplain limits. The record drawings for Unit 3 did not include specific restrictions on constructing within the delineated floodplain, and although the floodplain limits were also shown on the Official Plat (see Lancer Estates – Unit 3, Tract No. 2760, recorded April 1, 1991, File No. 1469278), no restrictions on constructing within the floodplain were noted. Unit 3 improvement plans showed building envelopes located in some cases nearer than 15 feet from the southerly floodplain edge. Aerial image analysis (see Note 48) indicates that in some instances, such as Lot 27, fill and riprap bank stabilization was placed well into the floodplain near the flow line of Whites Creek Channel #4. Furthermore, on the north side of the Channel, aerial images reveal the presence of a mound of fill placed just inside, and parallel to, the northerly subdivision boundary, extending nearly the entire length of the northern subdivision boundary. Portions of this fill are located within the limits of the floodplain shown on the Unit 3 record drawings. Unit 4 as-built plans again showed the flow line of Whites Creek Channel #4 near equidistant from the floodplain edges. Sheet G-1 of 13 showed the floodplain boundaries and noted “*No Structures or Obstructions Permitted.*” The Official Plat for Unit 4, also included with the as-built plans, within the delineated floodplain boundaries, contained the note, “*(No Structures Allowed).*” Again, fill was observed to be encroaching into the floodplain, as in the case of Lot 30, where fill and riprap placement extends nearly to the flow line of the Channel.

<sup>50</sup> According to Washoe County’s Geographic Information Systems website (<http://wcgisweb.washoecounty.us/fema/>), Lancer Estates homes bordering Whites Creek Channel #4 are located outside of the presently mapped floodplain, which is based on current FIRM No. 32031C3245G, revised March 16, 2009, and is visible on the “Flood Zones” layer. Also see FIRM No. 32031C3170 E, effective September 30, 1994, which is visible on the “Historic FIRM” layer. Comparing the two, it is evident that the floodplain has moved north several feet, likely due to the presence of the Lancer Estates fill and bank stabilization work.

<sup>51</sup> At the time the 1994 Sterling Ranch Floodplain Mapping Study was published, there was little or no development along the north edge of Whites Creek Channel #4. The terrain north of the Channel was rather uniform in slope. The Sterling Ranch Floodplain Mapping Study (see Note 38) used flow values of 1350 and 3000 cubic feet per second (cfs), respectively, in accordance with the Preliminary Basin Management Study recommendations (see Note 27), to estimate the upland overland flow width entering Sterling Ranch. The flow width at Station 1+00, about 100 feet east of the western boundary of Sterling Ranch, was calculated to be 239.10 feet for the 3000 cfs scenario, per the Proposed Condition Hydraulic Analysis HEC-2 model run dated June 7, 1994 at 07:51:58, which resembles the flared inlet width at Station 1+00 shown on the plans.



Sterling Ranch Floodplain Mapping Study, and issued a revised FIRM, which showed that the floodplain extended further north onto the Subject Parcel.<sup>52</sup>

John and Melissa Fritz purchased the Parcel in 2001,<sup>53</sup> after the Sterling Ranch flood control channel was built, and following construction of nearly all of Lancer Estates.<sup>54</sup> Shortly after, the Fritz' obtained permits from Washoe County to build a house and garage on the property in November 2001, and then a second garage was permitted in July 2002.<sup>55</sup> Back in 1994, Washoe County was made aware that the "*extent of the floodplains*" for the lower Whites Creek watershed represented by FEMA was "*significantly understated*,"<sup>56</sup> and because of the planning and construction of Sterling Ranch, the County was also aware that the floodplain crossing the Subject Parcel had shifted north.<sup>57</sup> Building permit documents issued in 2001 and 2002 issued for the Subject Parcel do not appear to have addressed the known flood hazard issue.<sup>58</sup>

It was not long after constructing their house and two detached garages that John and Melissa Fritz discovered the flood hazard on their Parcel.<sup>59</sup> During that period, upland development continued, and in 2006, construction was underway for the Reserve at Monte Rosa Units 1 and 2,<sup>60</sup> which ties into the Lancer Estates storm drain system.<sup>61</sup> Furthermore, sometime between 2007 and July 2010, an asphalt concrete parking lot was constructed at Whites Creek County

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<sup>52</sup> See Notes 15, 16 and 50.

<sup>53</sup> See Note 1.

<sup>54</sup> See Note 21. Article 420 of the Washoe County Development Code was introduced by Ordinance No. 908 and passed on September 20, 1994. Section 110.420.20 (f) (1) of the Code requires that runoff for storms exceeding, and including, a 5-year storm, *detention of the difference in peak runoff between the developed and undeveloped conditions shall be required.* Runoff from Lancer Estates generally continued unimpeded into Whites Creek Channel #4.

<sup>55</sup> See Washoe County building permit Nos. 01-4741 and 01-4742, issued November 8, 2001, and building permit No. 02-3135, issued July 16, 2002.

<sup>56</sup> See Note 27, and Preliminary Whites Creek Basin Management Study, at page 16. A copy of the 1990 FIRM was not provided for review, but the similarity between the 1984 and 1994 FIRMs (see Note 15) suggests that the floodplain limits on the 1990 FIRM would have been similar. Also see debris flow discussion accompanying Note 32.

<sup>57</sup> See Notes 49 through 51, and accompanying discussion. Utilizing the elevation data presented on the Gray and Associates Topographical Survey map dated August 1, 2001 provided with the building permit documents (see Note 55), and comparing that elevation data with Proposed Condition Hydraulic Analysis HEC-2 model run dated June 7, 1994 at 07:51:58 (see Note 51), at Cross Section Nos. 21 through 23, the correlated elevations suggest that Cross Section Nos. 21 through 23 were taken through, or near to, the Subject Parcel. The flow widths, for the 3000 cfs flood, at Cross Section Nos. 21 through 23 were estimated to be 131.80 feet, 166.91 feet, and 230.91 feet, respectively. Based on the correlated elevations, Cross Section No. 23 appears to have been taken near the location of Bihler Road.

<sup>58</sup> See Note 55.

<sup>59</sup> John and Melissa Fritz report that they have experienced flooding in their garage, or garages, on several occasions, since they were built. The most notable flood was that which occurred on during the evening hours of December 30 and early morning hours of December 31, 2005. Improvements on the property, including the house and two detached garages, are located outside of the mapped floodplain shown on the 2009 FIRM. See Note 50.

<sup>60</sup> See Official Plat for The Reserve at Monte Rosa Unit 1, recorded December 13, 2005, as File No. 3323026 and Official Plat for The Reserve at Monte Rosa Unit 2, recorded November 30, 2007, as File No. 3598845. Grading was well under way for both phases as evident in Google Earth Pro image dated October 28, 2006.

<sup>61</sup> See Notes 23 and 54. Finally, runoff from Monte Rosa in excess of, and including, the 5-year storm was designed to be detained on-site and released after the storm subsided, but runoff from more common storm events remains unimpeded. See discussion of storm frequency at Note 67.



Park.<sup>62</sup> As the result of these upland developments and questionable stormwater control philosophy, dating back to the mid-1980s, Whites Creek Channel #4 has continued to experience increasing stormwater discharges.<sup>63</sup>

### 3.0 DISCUSSION

The Fritz Parcel is located between urbanized Lancer Estates and Sterling Ranch, hydraulically connected by an unimproved earthen channel, Whites Creek Channel #4, that has been altered from its pre-existing, or natural, state, and which is a known flood hazard. Once primarily an overflow channel, Whites Creek Channel #4 is experiencing increased, and more frequent, flows as the result of Lancer Estates, and other tied developments, discharging intercepted runoff into the Channel upland from the Subject Parcel. During more ordinary storm events, such as those events when upper Whites Creek does not overflow into Channel #4, flows would be expected to remain within the Channel banks.<sup>64</sup> At some flow threshold, the Channel becomes overwhelmed, which causes flooding across the Subject Parcel. Less in magnitude than the flood described in the 1994 Preliminary Basin Management Study,<sup>65</sup> and analyzed in the Sterling Ranch Floodplain Mapping Study,<sup>66</sup> the repeated flooding condition reported on the Subject Parcel must have normally been the result of storms, more common in magnitude, that tend to occur more frequently.<sup>67</sup>

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<sup>62</sup> The asphalt concrete parking lot covers nearly one-half an acre and drains into Whites Creek Channel #4 via an earthen ditch, upland from the Subject Parcel, based on review of Google Earth Pro aerial images dated August 25, 2007 and July 10, 2010. It is not known from visual inspection if on-site detention was provided for the parking lot runoff in accordance with Article 420 as discussed in Note 54.

<sup>63</sup> See Notes 3, 10 and 14, and accompanying discussion. Whites Creek Channel #4 has historically functioned as an overflow channel, discharging excess floodwaters from upper Whites Creek during high flows. It was only after development of Lancer Estates Units 2 through 5 that Whites Creek Channel #4, upland from the Subject Parcel, experienced significant flows during storm events even when upper Whites Creek did not flood.

<sup>64</sup> See Leopold, L.B. 1994. *A view of the River*, Harvard University Press, Cambridge, Massachusetts. Leopold (at page 90) defines the “bankfull discharge” for rivers and streams as being the “channel-forming or effective discharge.” The bankfull discharge has a recurrence interval of approximately 1.5 years (Leopold, 1994), or having the chance of reaching bankfull discharge 0.67 times in any given year.

<sup>65</sup> See Note 27.

<sup>66</sup> See Note 38.

<sup>67</sup> The flood described in the Preliminary Basin Management Study (see discussion accompanying Notes 27 through 32) was noted as an extreme event, having a one percent chance of occurring in any given year, also known as the 100-year flood, or FEMA’s “base flood” (see Note 12). The 100-year flood “is not a predictor of the interval between flows of this magnitude but a way of expressing the statistical probability that a given flow will occur. We cannot assume that the next 100-year flood will occur 100 years from now.” (*The 1997 New Year’s Flood In Western Nevada*, Nevada Bureau of Mines and Geology, Special Publication 23, 1998, at page 93) Notable floods occurring in the area since development began include the events of February 1986, January 1997, and December 2005. These floods may not have reached the magnitude of the flood described in the Preliminary Basin Management Study. Upon reviewing aerial photographs before and after the famous 1997 and more recent 2005 floods, no substantial scarring of the channel banks, course alterations, or debris deposits were detected that one would expect from an extreme flood event such as the 100-year event described in the Preliminary Basin Management Study. Instead, it was more apparent that some channel incision had occurred between 1994 and 2006, which could be attributed to the increased urbanization in the area.



One explanation for the increased flooding frequency is that the culvert and fill constructed under Bihler Road, formerly Spezia Road, which crosses Whites Creek Channel #4 near perpendicular to its flow path, obstructs the floodplain, and is susceptible to becoming clogged.<sup>68</sup> The 1994 Preliminary Basin Management Study<sup>69</sup> and the 1994 Sterling Ranch Floodplain Mapping Study<sup>70</sup> did not acknowledge the presence of Bihler Road culvert and fill, but it existed.<sup>71</sup> Authors of the Sterling Ranch Floodplain Mapping Study may have concluded that the Bihler Road improvements, or floodplain obstruction, were sacrificial, or insignificant to their purpose, and given the magnitude of flows they were anticipating, the authors likely understood that the road and culvert would be overtopped, and/or washed out, during the 100-year flood.<sup>72</sup> It appears, in 1994, that the downstream clogging and overflow hazard, at lesser flows, was not a concern to Sterling Ranch planners, since the location of the culvert was only about 650 feet upland from the future Sterling Ranch flood control channel.<sup>73</sup> Regardless, against the general recommendations of the Preliminary Basin Management Study, the culvert and fill placed under Bihler Road remains,<sup>74</sup> and when the culvert clogs, Whites Creek Channel #4 flows escape the channel banks and flow north onto the Subject Parcel.

Another notable alteration to the floodplain, and cause of flooding during more common storms, is the presence of fill along the northerly boundary of Lancer Estates Unit 3.<sup>75</sup> The fill prevents runoff on the north side of Whites Creek Channel #4 from entering the Channel, the apparent natural flow direction, and instead forces runoff east down the dilapidated Trails End Lane and across the Subject Parcel. This runoff has increased over time due to the development of lots along the northerly boundary of Lancer Estates, upland from the Subject Parcel.<sup>76</sup>

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<sup>68</sup> See Note 19, and accompanying discussion. Experience shows that culverts commonly tend to become blocked, or clogged, with debris. Lack of upland channel maintenance, such as clearing the channel bed and banks of debris, or seasonally high flows which may transport debris, commonly leads to debris getting caught at the culvert entrance, which causes water to back up behind the culvert and overtop the channel banks.

<sup>69</sup> See Note 27.

<sup>70</sup> See Note 38.

<sup>71</sup> The Google Earth Pro aerial image from 1994 (see Note 48) appears to show the presence of the culvert crossing at Bihler Road, formerly Spezia Way.

<sup>72</sup> See Notes 51 and 57, and accompanying discussion. The anticipated flow width near Bihler Road was nearly 230 feet per the Sterling Ranch Floodplain Mapping Study (see Note 38). The 1994 Google Earth Pro image also shows that there was no development downstream of the Bihler Road culvert, at that time, and therefore no downstream hazards to cause concern. Flows escaping the Channel banks were designed to be collected into the flared inlet at the Sterling Ranch flood control channel.

<sup>73</sup> Ibid.

<sup>74</sup> The 1994 Preliminary Basin Management Study (see Note 27), provided recommendations for managing the basin, including Whites Creek Channel #4. The Study (at page 28) proposed several “interim policies,” including establishing “drainage corridors,” and recommended that “[a]t locations where channel definition and/or capacity is insufficient to convey the desired proportionalized flow, a combination of excavation and adjacent filling will be needed to create a defined channel or conveyance area.” Instead, Bihler Road improvements obstruct the floodplain. See Notes 19 and 68, and accompanying discussion.

<sup>75</sup> Apparently undocumented, location of the fill was discussed in Note 49. Portions of the fill were located within the 1994 floodplain, and it is also located entirely within the present floodplain (see Notes 15 and 50).

<sup>76</sup> Notable developments include home construction and the paving of driveways on parcels west of Jenna Lane, mostly after 1999 as shown on the Google Earth Pro aerial images (see Note 48).



#### **4.0 CONCLUSION**

The facts reveal that the cause of flooding on the Subject Parcel is not due to recurring 100-year flood events, but is the result of alterations of the floodplain upland from the Subject Parcel. Washoe County has been aware of the flood hazard crossing the Subject Parcel since 1984, when the County adopted the Flood Hazard Reduction Ordinance. Instead of reducing the flood hazard on the Subject Parcel, development of Lancer Estates included obstructing the floodplain and forcing it north, which has caused repeated flooding on the Subject Parcel and has made the flood hazard more severe. Absent corrective measures, flooding on the Parcel will continue, and when the 100-year flood event planned for during design of Sterling Ranch finally occurs, damages to the Subject Parcel will likely be disastrous.





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**Clark E. Stoner, P.E., P.L.S.**  
**Civil Engineer and Land Surveyor**

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**Sonoma, CA 95476**

**Voice: 707-996-8449**

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## **SUMMARY OF EXPERTISE**

- Studying and analyzing the technical aspects of stormwater related real property tort claims and consulting on the legitimacy of those claims.
- Formulating and preparing the technical framework for stormwater related real property tort case analysis.
- Developing watershed history studies to identify potential sources of systemic hydraulic instability and consulting on the causes of instability.
- Developing watershed hydrology studies, floodplain and storm drain system hydraulic studies, and natural and man-made stream and channel stability studies for cases involving nuisance, trespass and inverse condemnation.
- Successfully simulating flood events to determine how and why damages were caused, to quantify the extent of those damages, and to identify those properties upon which the damages occurred.
- Developing historic land use studies for claims involving local ground deformation, trespass, inverse condemnation, and personal injury.
- Design of stormwater conveyance and detention facilities as part of civil engineering conceptual and detailed site design.
- Civil engineering design of infrastructure improvements.
- Foundation and/or structural distress investigations.
- Forensic surface and subsurface water intrusion investigations.
- Preparation of ALTA/ASCM land title surveys for commercial and high density residential projects in accordance with the 2011 Minimum Standard Detail Requirements for ALTA/ASCM Land Title Surveys.



- Conducting forensic investigations to resolve boundary and title ambiguities and conflicts.
- Conducting surveys for technical consultants and property owners to monitor ground movement and structural deformation, and providing detailed reports to summarize results and demonstrate movement/deformation trends.
- Developing successful strategies for pre-construction, interdisciplinary document coordination to identify potential conflicts prior to commencing construction layout control surveys.
- Performing construction layout control surveys for mass grading operations and multi-rise building construction.

## **PROFESSIONAL CREDENTIALS**

Civil Engineer: State of California	#C64674	2003
Civil Engineer: State of Nevada (Delinquent Status: Pending Renewal)	#16551	2004
Land Surveyor: State of California	#8750	2010

## **EDUCATION**

San Diego State University  
B.S. Civil and Environmental Engineering, 1996

Graduate Studies in Civil and Environmental Engineering  
Enrolled 1996 to 1997.

Courses completed:

Fluvial Processes in River Engineering  
Advanced Surface Water Hydrology  
Chemistry for Environmental Engineering  
Advanced Topics in Water and Wastewater Engineering

## **PROFESSIONAL EXPERIENCE**

<b>CFS Engineering</b> Capitola & Sonoma, CA	Principal Engineer and Owner	2003-Present
<b>MWH Global</b> Edinburgh, UK San Diego, Ca	Project Engineer	1998-2001
<b>Malcolm Pirnie, Inc.</b> San Diego, Ca	Project Engineer	1996-1998
<b>Hetherington Engineering, Inc.</b> Carlsbad, Ca	Project Engineer Engineering Technician	1998 1993-1996



## **CONTINUING EDUCATION**

**Fire Investigation - Origin and Cause:** Investigative Engineers Association, Peter Vallas instructor, July 2014

**Forensic Accident Scene Surveying and Mapping:** California Association of Accident Reconstruction Specialists, Joel Salinas instructor, July 2014.

**Hydrogeology, Soils and Site Assessment:** California On-site Wastewater Association, Debra Robertson and Shane Cummings instructors, May 2014.

**Avoiding Boundary Problems:** California Land Surveyors Association, Gary Kent Instructor, March 2013.

**Understanding Title vs. Survey:** California Land Surveyors Association, Gary Kent Instructor, March 2013.

**How to Excel at Your Expert Witness Deposition:** SEAK, Inc., Steven Babitsky, Esq. instructor, January 2013.

**Evidence, Exhibits and Testimony:** California Land Surveyors Association, Chuck Karayan instructor, March 2012.

**Research, Recovery, Monumentation, Recordation:** California Land Surveyors Association, Steve Parrish instructor, September 2011.

## **AFFILIATIONS**

American Society of Civil Engineers  
California Land Surveyors Association  
Investigative Engineers Association  
Forensic Expert Witness Association, Associate Member



Exhibit 3

Exhibit 3



AFFIDAVIT OF CLARK STONER

STATE OF California )  
 ) ss:  
COUNTY OF Sonoma )

I, Clark Stoner, do hereby swear and affirm under penalty of perjury that each and every assertion contained within this affidavit are true.

1. I am the affiant and I am competent to make this testimony;
2. I have personal knowledge of each and every fact attested to herein;
3. I am the author of the report entitled CHANNEL STUDY Whites Creek Channel #4, prepared for John and Melissa Fritz 14400 Bihler Road, Reno, NV 89511, dated October 17, 2014.
4. In August of 1984, Washoe County adopted Ordinance No. 616, the Flood Hazard Reduction Ordinance, adopting all, or most, of the provisions of the Federal Emergency Management Agency's (FEMA) "Flood Insurance Study for Washoe County, Nevada, Unincorporated Areas," dated February 1, 1984.
5. The southernmost channel of Whites Creek, the channel upland from and crossing the Subject Parcel, was determined to be a "Flood Hazard Area," according to FEMA's 1984 Flood Insurance Rate Map (FIRM).
6. Prior to 1984, there had been no development near the southernmost channel of Whites Creek and the Subject parcel. In the area now occupied by Lancer Estates, aerial photographs show that pre-development runoff from the Lancer Estates area entered the southernmost channel of Whites Creek several hundred feet downhill and east of the Subject Parcel.
7. The limits of the FEMA floodplain boundary for the southernmost channel of Whites Creek would remain basically unchanged from its original 1984 location through the 1990s and early 2000s. In 2009, FEMA issued a new FIRM, which showed that the floodplain along the southernmost channel of Whites Creek grew wider and the majority of the floodplain was located further north.
8. Later phases of Lancer Estates, Units 3 through 10, were approved and constructed between 1991 and 2001. Development plans for Lancer Estates Units 3, 4 and 5 indicate that the overall strategy for drainage control within Lancer Estates was to intercept runoff from, and grade over, the long pre-existing drainage rivulets crossing the development, and convey the drainage underground north into the southernmost channel of Whites Creek, upland from the Subject Parcel.
9. Responding to active and future development occurring in the area of lower Whites Creek, Washoe County commissioned a Preliminary Basin Management Study, which was published in August 1994, to identify flood hazards and to "develop interim policies for new development and infrastructure improvements within the watershed."
10. Among several "problem areas" noted in the Preliminary Basin Management Study as having flooding potential, included were those developed Lancer Estates parcels for which Whites Creek Channel #4 passed through.
11. Sometime between 2007 and July 2010, an asphalt concrete parking lot was constructed at Whites Creek County Park.

1 - Affidavit of Clark Stoner



12. That the storm drain system of Monte Rosa ties into the storm drain system at Lancer Estates.
13. As the result of the upland developments and questionable stormwater control philosophy, dating back to the mid-1980s, Whites Creek Channel #4 has continued to experience increasing stormwater discharges.
14. The cause of flooding on the Subject Parcel is not due to recurring 100-year flood events, but is the result of alterations of the floodplain upland from the Subject Parcel. Washoe County has been aware of the flood hazard crossing the Subject Parcel since 1984, when the County adopted the Flood Hazard Reduction Ordinance. Instead of reducing the flood hazard on the Subject Parcel, development of Lancer Estates included obstructing the floodplain and forcing it north, which has caused repeated flooding on the Subject Parcel and has made the flood hazard more severe. Absent corrective measures, flooding on the Parcel will continue, and when the 100-year flood event planned for during design of Sterling Ranch finally occurs, damages to the Subject Parcel will likely be disastrous.
15. If I were to give testimony in open court, it would be substantively the same as that set forth hereinabove.

FURTHER AFFIANT SAYETH NAUGHT

*Clark E. Stoner III*

CLARK STONER

SUBSCRIBED and SWORN to before me

this \_\_\_\_ day of \_\_\_\_\_,

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

NOTARY PUBLIC

State of California, County of Sonoma

Subscribed and sworn to (or affirmed) before me on

this 13 day of Feb., 2015, by

Clark Stoner III

Proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Signature of Notary *Matthew Evans*





Exhibit 4

Exhibit 4





PLANNERS ENGINEERS SURVEYORS LANDSCAPE ARCHITECTS

Alex Fittinghoff, A.I.C.P. Sam Chacon, P.E. Steve Williams, R.L.A. Bryan Sprague, P.E.

Project No. 83-027.06  
August 30, 1990

SEP 05 1990

Mr. Larry Bogden  
Washoe County Engineering Division  
P.O. Box 11130  
Reno, NV 89520

RE: Lancer Estates (TM7-11-90)

Dear Larry:

The purpose of this letter is to respond to some of the issues that were raised at the August 17 Agency Review Meeting.

1. As requested in the August 15 letter from Dave Price to the Department of Comprehensive Planning, the applicant will provide temporary emergency access to the Mount Rose Highway from either Sundance Court or Deer Valley Court. This access will be 20-foot wide and have a 4-inch decomposed granite surface. Based on our recent conversation, it is my understanding that your department will not require pavement.
2. The applicant will provide two additional access easements to the government tracts. These easements will align with existing easements in those tracts. As you know, a 50-foot wide access easement was dedicated with Unit 2 of Lancer Estates (aka Shadowridge Village). Our intention is to provide a second easement somewhere east of Whites Creek between the existing easement and the creek. The third easement will be provided west of Whites Creek from the end of Taos Court. As recommended in your August 15 letter, this access could then loop through the government tracts on existing easements and return to Thomas Creek Road. This would then solve the problem of having 23 lots served by a cul-de-sac.
3. In regard to the signal at the Mount Rose Highway and Sundance Drive, it is our understanding that any modifications to the signal will be funded through the Interim Traffic Facility Collection Program, of which this project will contribute over \$231,000.00.
4. We met with Keith Kellison on August 21 to discuss easements to the Kellison property. At this time, Mr. Kellison and Mr. Ekins have agreed that one, 24-foot wide easement to his

1150 CORPORATE BLVD. RENO, NV 89502 (702) 786-1150  
FAX (702) 786-1160

Fritz v. Washoe Opp to MSJ 000028

Fritz v. Washoe County - Case No. 67660 - Bates No. 000150

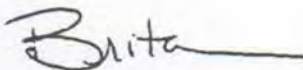


property will be provided. The desired location is at the northeast corner to provide access to the less steep portion of his parcel. The exact location is unknown but will probably be in the vicinity of either Deer Valley Drive, between lots 64 through 66, or Whisler Mountain Court, between lots 67 through 70. The 20-foot easement currently shown on the tentative map at the end of Lake Placid Court will be deleted.

5. The unbuilt portion of the sound wall in Unit 1 should be completed prior to the October Planning Commission meeting.
6. At our meeting on August 30, we concluded that the detention ponds shown on the tentative map will be deleted. Storm flows will be directly discharged into the flood zone of Whites Creek, and the developer will provide all the erosion control at the outlets. In addition, the increased runoff caused by this development will not be retained on site.
7. In regard to your comment about directing drainage away from the Kellison property, this item will be handled during final design of that phase of the subdivision. Our intention is not to discharge any storm flows onto the Kellison property.

Please contact me if I have misunderstood your position on any of these issues. Thanks for your help.

Sincerely,



Brita Tryggvi, AICP  
Senior Planner

BT:cw

pc: Don Ekins  
Keith Kellison

~~Steve Young~~



## Exhibit 5

## Exhibit 5





# WASHOE COUNTY

## Department of Public Works

*"Dedicated to Excellence in Public Service"*

Dan St. John, Public Works Director

1001 East 9<sup>th</sup> Street PO Box 11130 Reno, Nevada 89520 Telephone: (775) 328-2040 Fax: (775) 328-3699

July 3, 2008

Dear Washoe County Resident:

This letter is being sent to you for informational purposes only because our records show that your property is very likely located in the floodplain. The County is working on ways to improve and increase its circulation of and accessibility to inform that pertains to the floodplain, in an effort to better educate and assist its citizens about developing and living in the floodplain. Please take the time to read the information below and if you have further questions, or would like additional information, a variety of contact information has been supplied at the end of this document.

### Overview

The Truckee River is incorporated throughout most of the Truckee Meadows in Washoe County along with several smaller streams and tributaries that are susceptible to annual flooding events. The flooding events pose threats to life and safety and have caused significant property damage. Washoe County has close to 105,000 acres of floodplain and nearly 4,400 individual parcels that are partially or entirely located within the floodplain. Snowmelt from the Sierra Nevada mountain range contributes substantially to flooding, as well as ongoing development that has displaced natural areas that have historically functioned as flood storage.

### Recent Flooding Events

The Truckee River has had one major flood event per decade, on average. Fourteen major floods have occurred in the Truckee Meadows since 1862 when records were first kept. Our region has experienced major flood events every decade since the 1950s.

While some types of seasonal flood-related damage occurs every year, the flooding events of 1986, 1997, and 2005 represent the most recent significant flooding. In 1997, prolonged precipitation accompanied by an early snowmelt, caused by a warm-weather trend known as the "Pineapple Express" caused the Truckee River, Steamboat Creek, Boynton Slough, North Truckee Drain and several other tributaries throughout the Truckee Meadows to rise above 100-year flood levels, causing flooding in both rural and urban areas. Over 7,000 acres of land were flooded and damages were estimated to be over 700 million through out the Truckee Meadows region and over 1 billion over six counties. Washoe County estimated that the flood of 1997 affected over one-half of the overall County population.

### Causes of Flooding

Flooding occurs when climate (or weather patterns), geology and hydrology combine to create conditions where river and stream waters flow outside of their normal course and "overspill" beyond their banks. In Washoe County, the combination of these factors create chronic seasonal flooding conditions.

Flooding is most common December through March in Washoe County when storms encompassed with warmer temperatures and heavy rainfall come over the snow-packed Sierra Nevada mountains. Larger

Equipment Services Imaging & Records Mgmt. Reprographics & Mail Services Animal Services Capital Projects Facility Mgmt. Engineering Roads



floods result from the heavier rains that continue over the course of several days, incorporated with snowmelt at a time when the soil is near saturation from previous precipitation.

Riverine flooding and urban flooding are the two types of flooding that primarily affect Washoe County. Riverine flooding is the overbank flooding of rivers and streams, the natural process of which adds sediments and nutrients to fertile floodplain areas. Urban flooding results from the conversion of land from fields or vacant land to buildings, parking lots and roads, though which the land loses its ability to absorb rainfall and the water runoff from the storms causes increased water in the low-lying areas.

### **Flood Insurance**

Washoe County participates in the National Flood Insurance Program (NFIP) that makes available federally backed flood insurance for all structures, whether or not they are located within the floodplain. NFIP has claims that are filed by properties located outside the 100-year floodplain, also known as the Special Flood Hazard Area (SFHA). Following the purchase of flood insurance, NFIP imposes a 30-day waiting period, so residents should purchase insurance before the onset of the rainy season to insure coverage during the flooding season.

Membership within NFIP (and thus the availability of flood insurance to County residents) requires the County to manage its floodplain in ways that meet or exceed standards set by FEMA. NFIP insures building with two types of coverage: structural and contents. Structural coverage includes walls, floors, insulation, furnace and other items permanently attached to the structure. Contents coverage may be purchased separately to cover the contents of an insurable building. Flood insurance also pays a portion of the costs of actions taken to prevent flood damage.

Since July 1, 1997, all NFIP policies include Increased Cost of Compliance coverage that assists with bringing structures into compliance with current building standards, such as elevating structures 1 foot or more above the height of the 100-year flood. **The limit of this coverage is \$30,000.**

Federal financial assistance requires the purchase of flood insurance for buildings located within the SFHA—a requirement that affects nearly all mortgages financed through commercial lending institutions. This mandatory requirement stipulates that structural coverage be purchased equal to the amount of the loan, or other financial assistance, or for the maximum amount available, which is currently \$250,000 for a single family residence. While the mandatory flood insurance purchase requirement has been in effect for many years, not all lending institutions required flood insurance in the past. Today, however, most institutions are now requiring the flood insurance purchase, and some are reviewing all mortgage loans to determine whether flood insurance is required and should have been required in the past. Upon refinancing a loan, nearly all lending institutions will enforce the flood insurance requirement. It is the lender's responsibility to check the Flood Insurance Rate Map (FIRM) to determine whether a structure is within the SFHA.

### **Flood plain Operations**

The mandatory flood insurance purchase requirement does not apply to loans or financial assistance for items that are not eligible for flood insurance coverage, such as vehicles, business expenses, landscaping and vacant lots. The requirement also does not apply to loans for structures not located in a SFHA, even though a portion of the lot may be within a SFHA. Persons located within SFHA's who received disaster assistance after Sept. 23, 1994 for flood losses to real or personal property must purchase and maintain flood insurance coverage, otherwise future disaster assistance will be denied.

Maintaining the flow capacity in streams that cross County properties requires cooperation and assistance to prevent flooding and bank erosion. Following are some suggestions and information for understanding



the ways that floodplains function and how the County regulates the floodplain in order to protect property and lives, while affording County citizens the ability to obtain floodplain insurance.

***Do not dump or throw anything into ditches or streams:*** A plugged channel cannot carry water, and when it rains, the excess water must go somewhere. Trash and vegetation dumped into a stream degrades water quality of both the stream itself and its receiving waters, and every piece of trash contributes to flooding. The County has adopted and enforces regulations that prohibit the illegal dumping of material, including material dumped into ditches, streams or other drainage ways. Please report any observations of the dumping of debris or other objects into streams, drainage ways, or rivers to Washoe County Public Works Department at (775) 328-2040.

***Remove debris, trash, loose branches and vegetation:*** Keep banks clear of debris to help maintain an unobstructed flow of water in stream channels. Do not remove vegetation that is actively growing on a stream bank. Streamside vegetation is tightly regulated by local, state and federal regulations. Before undertaking any removal of streamside vegetation, contact the Washoe County Public Works Department at (775) 328-2040 and the Corp of Engineers at (775) 784-5307. Please report any observations of the clearing of vegetation or trees on stream banks to the Washoe County Public Works Department.

***Obtain a grading permit and/or building permit, if required:*** To minimize damage to structures during flood events, the County requires all new construction in the floodplain to be anchored against movement by floodwaters, resistant to flood forces, constructed with flood-resistant materials and flood-proofed or elevated so that the first floor of living space, as well as all mechanical services, is at least 1 foot above the elevation of the 100-year flood. These standards apply to new structures and to substantial improvements of existing structures. The County defines a Substantial Improvement as any reconstruction, rehabilitation, or addition to an existing structure, the cost of which exceeds 50 percent of the structure's appraised or market value. Additionally, most other types of development within the floodplain also require a grading permit which includes cut and fill, installation of riprap and other bank stabilization techniques. County staff is available to undertake site visits, if requested, to review flood, drainage and grading issues. Contact the Washoe County Public Works Department at (775) 328-2040 for information and prior to undertaking any activity within the floodplain or if you see non-permitted building or filling in the floodplain.

***Recognize the natural and beneficial functions of floodplains to help reduce flooding:*** Floodplains are a natural component of the Washoe County environment. To understand and protect the natural functions of floodplains helps reduce flood damage and protect resources. When flooding spreads out across the floodplain, its energy is dissipated, which results in lower flood flows downstream, reduced erosion of the stream bank and channel, deposition of sediments higher in the watershed and improved groundwater recharge. Floodplains are scenic, valued wildlife habitat, and suitable for farming. Poorly planned development in floodplains can lead to stream bank erosion, loss of valuable property, increased risk of flooding to downstream properties and degradation of water quality.

***Reduce Risk of damage to homes:*** Practical and cost-effective methods for reducing or eliminating the risk of flooding are available to property owners whose homes have experienced damage from flooding in the past, or may experience damage in the future. Such techniques include elevation of the home, relocating the home to higher ground and protecting utilities. For further information, contact the Washoe County Public Works Department at (775) 328-2040. During times of flooding, homes that have not been retrofitted can be protected during emergencies by the installation of sandbags. For further information about sandbags and the locations of sites where sandbags are available during flooding, contact Washoe County Public Works Department or visit our Web site at: [www.washoecounty.us](http://www.washoecounty.us). In case of an emergency, call 911.



**County floodplain Information Services:** The County can determine the relationship of a particular property to the floodplain, including: 1) whether the property is located within the Special Flood Hazard Area; 2) Flood Insurance Rate Map (FIRM) Zone for the property; 3) Base Flood Elevation for a property, if available; and 4) whether the property is located within the Floodway. The County also maintains elevation certificates for review, if available. Contact the Washoe County Public Works Department at (775) 328-2040 for information.

The County has flood warning information available that can be accessed through our Web site at: [www.washoecounty.us](http://www.washoecounty.us). The Web site includes information about sandbag locations and ways to contact and listen to the National Weather Service. It also has an informational brochure that explains how people can prepare for an emergency.

### **Consideration During Flooding Events**

**Prepare an evacuation plan:** Before the floodwaters hit, develop an evacuation plan among all members of a household that includes a meeting place outside of the house, as well as an escape route out of the floodplain and away from floodwaters.

**Do not walk through flowing water:** Drowning is the number one cause of flood deaths, mostly during flash floods. Currents can be deceptive; six inches of moving water can knock you off your feet. If you walk in standing water, use a pole or stick to ensure that the ground is still there.

**Do not drive through a flooded area:** More people drown in their cars than anywhere else. Don't drive around road barriers; the road or bridge may be washed out.

**Stay away from power lines and electrical wires:** The number two flood killer after drowning is electrocution. Electrical current can travel through water. Report downed power lines to the Sierra Pacific Power Company or your utility provider.

**Shut off gas and electricity and move valuable contents upstairs:** Be prepared in advance with a detailed checklist because warning of an impending flood may provide little time for preparation prior to evacuation.

**Look out for animals, especially snakes:** Small animals that have been flooded out of their homes may seek shelter in yours. Use a pole or stick to poke and turn things over and scare away small animals.

**Look before you step:** After a flood, the ground and floors are covered with debris including broken bottles and nails. Floors and stairs that have been covered with mud can be very slippery.

**Be alert for gas leaks:** Use a flashlight to inspect for damage. Don't smoke or use candles, lanterns or open flames unless you know that the gas has been turned off and the area had been ventilated.

### **Contact Information**

If you would like to learn more about flood information, insurance and/or safety, please contact or visit the website links of the different organizations:

- 1) **Washoe County**  
**Phone: (775) 328-2040**



**Web:** <http://www.washoecounty.us/>

**2) Washoe County Internet Floodplain Information**

**3) Federal Emergency Management Agency (FEMA)**

**Phone:** (425) 487-4600

**Web:** <http://www.fema.gov/nfip/>

**4) Truckee Meadows Flood Awareness**

**Web:** <http://www.floodawareness.com/>

**5) Truckee River Flood Project**

**Web:** <http://www.truckeeflood.us/>

**6) Floodplain Management Association**

**Web:** <http://www.floodplain.org/>

**7) Association of State Floodplain Managers**

**Web:** <http://www.floods.org/>

**8) U.S. Army Corps of Engineers**

**Web:** <http://www.lrl.usace.army.mil/>

**9) Nevada Floodplain Management Program**

**Phone:** (775) 687-4380 ext. 232

**Web:** <http://water.nv.gov/Flood/index.cfm>



## Exhibit 6

## Exhibit 6



## Chapter 4

# Background on Flood Control / Storm Drainage

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## Purpose and Scope

In developing the flood element of the Regional Water Plan, background concerning flood control and drainage policies and facilities as they exist today provides a resource from which to make future decisions for this element of the plan. Additionally, this chapter suggests options for developing performance standards concerning flood control and drainage for future consideration in the planning process. Other options beyond these may be developed for acceptance by local jurisdictions.

Two key points must be recognized when planning for the management of flood events:

1. Flooding is a regional phenomenon: Floodwater does not respect municipal or property boundaries.
2. Every area has a storm water and flood drainage conveyance system, whether planned or not.

In general, storm water drainage means conveyance of flows during storm events that do not cause streams and rivers to overflow their banks or the design capacity of storm drain facilities to be exceeded. Flooding occurs when streams or rivers overflow their banks or flows exceed storm drain capacities causing floodwater to inundate nearby land.

The region encourages coordination among local government agencies in implementing a strong flood plain management program that will minimize future flood risks to people and property.

The purpose and goals of flood control in the Region focus on the following:

- Reduction of flood damages and losses to businesses, residents and the general economy of the region
- An updated flood warning system and especially a completed emergency response plan for flooding events that is adopted by the region and administered through the regional Emergency Operations Center (EOC)
- River restoration for multiple benefits
- A mechanism to fund the capital cost of flood protection and the operation and maintenance of flood protection facilities
- Development of consistent flood plain regulations across the region
- Consistent building regulations for flood plain properties
- Identification and adoption of a flood plain management plan that identifies policies to be adopted and actions needed to be taken to reduce flood damages in the region before a disastrous flood hits again. This would include land use design policies and control of runoff rates and runoff volumes.
- Consistent drainage design standards for controlling runoff rates and volumes
- Consistent drainage design and best management practices to deal with water quality monitoring and treatment of storm water runoff. This is especially important for the more frequent events that only flush the contaminants off the impervious surfaces but do not provide larger flows to dilute these contaminants, such as a 50-year or 100-year flood project design scenario (see Chapter 5).
- Consistent retention standards that help recharge groundwater, and reduce runoff (example: Low Impact Development standards currently being developed)



The Regional Water Planning Commission (RWPC) and other groups have made substantial progress in completing a number of documents related to flood control and storm water management, but more remain. For additional background on flood control and storm drainage, the reader is referred to this list of the completed studies:

- Draft Hydrologic Criteria and Drainage Design Manual (Washoe County, 1996)
- Flood Plain Management Strategy (RWPC, 2003)
- Flood Storage Volume Mitigation for Zones 1 & 2 (Nimbus and MIG, 2004)
- Truckee Meadows Construction Site Best Management Practices for Storm Water Management (Kennedy/Jenks, 2003)
- Truckee Meadows Storm Water Quality Management Program (Kennedy/Jenks, 2001)
- Truckee Meadows Structural Controls Design Manual – Guidance on Source and Treatment Controls for Storm Water Quality Management (Kennedy/Jenks, 2004)

Remaining studies: (list may be incomplete as new information becomes available)

- Hydrologic Criteria and Drainage Design Manual Update (WRC Nevada, in progress)
- Flood Storage Volume Mitigation for Zones 3 & 4 (Nimbus and MIG, in progress)
- Storm Water Mitigation Criteria
- Regional Flood Control Master Plan (WRC Nevada, in progress)
- Flood Storage Mitigation Plans for closed basins
- Flood Storage Volume Mitigation Financial Impact and Financing Plan
- Low Impact Development Manual

## Summary of Findings

- Damageable property in the Truckee Meadows flood plain consists of commercial, industrial, residential, and public buildings valued at about \$5 billion.
- There were more than \$600 million in physical damages and economic impacts as a result of the 1997 Truckee River flood.
- Incorporation of hydrologic data since the mid-1980s has resulted in estimated peak flow for specific frequency events higher than originally thought. The 1 in 100 year event at Reno is now estimated to be 20,700 cubic feet per second (cfs). Peak flows for certain frequency events are shown in Table 4-1.

**Table 4-1**  
**Estimated Peak Flows – Truckee River at Reno**

<b>Exceedance (Chance of Occurrence in any 1 Year)</b>	<b>Peak Flow (cfs)</b>
1/20	9,200
1/50	14,800
1/100	20,700
1/500	63,000

Source: US Army Corps of Engineers



- Riverine flooding and alluvial fan flooding are common in Nevada. Riverine flooding occurs when flows in rivers and streams rise over a period of hours or days and overtop stream banks inundating nearby low-lying areas. Alluvial fan flooding occurs when floodwaters emerge from canyon mouths, typically with little or no warning, and travel downstream at very high velocities carrying significant loads of sediment and debris.
- In the 1985 feasibility report for the Truckee River Flood Control Project, the estimated discharge for the 1 in 100 year event at Reno was computed at approximately 18,500 cfs. This flow has been used by the Federal Emergency Management Agency (FEMA) to identify areas subject to flooding for flood insurance purposes.
- The base flood elevation for the January 1997 flood, considered to be slightly greater than the 100-year flood event, was approximately 1.6 feet higher than the existing FEMA base flood elevation at the Vista gage. Therefore the actual 100-year flood levels are higher than those shown on FEMA flood maps. Structures built to current FEMA standards within the area approximately bounded by Rock Boulevard, Interstate 80, and Mira Loma Boulevard are not necessarily protected during a 100-year flood event.
- Information prepared for the RWPC (WRC Nevada, 2003) indicates that loss of flood storage volumes due to development of existing approved land uses within the flood plain on the north and south sides of the river could result in an increase of 0.4 to 0.6 feet in the base flood elevation.
- Information prepared by participants in the Truckee River Flood Management Project Working Group indicates that an increase in the base flood elevation of as little as two or three inches over the 1997 flood event could result in the inundation of approximately 1,800 additional homes in the Steamboat Creek area. Other properties throughout the region may also be subject to additional damages.
- Recently built homes and businesses were constructed in compliance with current ordinances requiring the first floor to be elevated either one or two feet above the existing FEMA base flood elevation. Structures constructed prior to current ordinances may have been elevated to a lesser extent or not at all.
- The Community Coalition, comprised of a diverse community membership, came together in April 2000 to develop flood management alternatives for Reno, Sparks and neighboring residents on the Truckee River, embracing the concept of a "Living River": a valuable resource to the community and a natural system with beneficial functions through restoration and preservation.
- Broad community support is essential to implement flood control and storm drainage plans and projects that seek to minimize flood damages.

## 4.1 Flood Damage

Major flooding in an urban environment has many adverse consequences, including monetary damages and loss of real property. Monetary loss is the primary way of depicting flood damages and assessing the effectiveness of flood protection alternatives. However, floods have many other disturbing, non-monetary effects. Among these are effects on public health and safety, damages from toxic and hazardous waste contamination, and loss of environmental resources in the flood plain. Following are brief descriptions of potential monetary and non-monetary consequences of flooding in the Truckee Meadows area.

### Public Health and Safety

Approximately 30,700 people in the Region reside within the FEMA 100-year flood zone. The population within the FEMA 100-year flood zone delineated for the Truckee River, Steamboat



Creek, North Truckee Drain, Whites Creek and Thomas Creek is approximately 22,000. The effect of levee failure and resultant flooding on human life would depend on the flood magnitude, population at risk, flood warning time and evacuation routes. In addition to loss of life, major flooding could result in life-threatening injury and spread of some communicable diseases. Evacuating the flood plain in anticipation of a major flood could result in traffic accidents and other injuries associated with the rapid displacement of up to 22,000 people. In addition, there is the potential for loss of life and property damage associated with flooding on alluvial fans.

### **Contamination from Toxic, Hazardous, and Related Waste**

Flooding may result in significant releases of toxic and hazardous substances from above-ground tanks and drums containing heating oil, fuel oil, liquid propane, and kerosene; agricultural chemicals such as herbicides, pesticides, solvents, and fertilizers; many commercial and industrial chemicals; and untreated wastewater. Widespread flooding could also result in groundwater contamination.

### **Flood Cleanup and Resources Consumption**

Major flooding generates large quantities of flood-related debris, most of which is hauled to local landfills. Also, rebuilding or relocating homes, businesses, and related infrastructure would require additional natural and financial resources.

### **Property and Businesses**

Damageable property in the Truckee Meadows flood plain consists of commercial, industrial, residential, and public buildings valued at about \$5 billion. Additional effects on the day-to-day business of the Reno-Sparks metropolitan area would be significant. Many businesses would be forced to close, at least temporarily, during flooding and clean up afterward, resulting in lost revenues and wages.

Physical damages caused by inundation losses or flood response preparation costs are the main types of flood damages within the flood plain. Physical damages include damage to, or loss of, buildings and their contents, raw materials, goods in process, and finished products awaiting distribution. Other physical damages include damage to improvements such as roads, utilities and bridges, and cleanup costs. Additional costs are incurred during flood emergencies for evacuation and reoccupation, flood fighting, and disaster relief. Loss of life or impairment of health and living conditions are intangible damages that cannot be evaluated in monetary terms.

Average annual equivalent damages are the expected value of damages for a given economic condition and point in time. They are determined by weighing the estimated damages from varying degrees of flooding by their probability of occurrence. Average annual equivalent flood damages are estimated at \$32 million for existing development conditions in 2004.

## **4.1.1 Issues for Consideration**

The following items are suggested areas of investigation that could be undertaken to further delineate flood control and storm drainage issues:

- Continue work to update and develop a Flood Control Master Plan for the Region. Coordination for consistency of flood plain management, drainage design, and other storm water and flood control management. Consideration of various governance structures to implement this would need to be developed through cooperative negotiations between Reno, Sparks and Washoe County.



- A study to determine the costs and impacts of flood storage volume mitigation and other flood related impacts and costs, analysis of the same, and an assessment for meeting those costs including some form of administration
- Regionally coordinated flood warning system with a regionally coordinated flood emergency response plan with regular exercising, evaluating, and improving of the response plan
- Development of funding mechanisms that allows local entity control over flood projects and storm water management in their jurisdiction. This element would be developed through negotiations between Reno, Sparks and Washoe County. Consideration of various governance structures to implement this would likewise be investigated.
- Consistent local flood plain management regulations for compliance with the National Flood Insurance Program (NFIP)
- Participation in the Community Rating System to lower flood insurance premiums through implementation of flood damage reduction strategies such as:
  - Regional flood plain management plan
  - Aid in “smart growth” planning and proactive measures for flood protection
  - Maintain existing flood protection
  - No Adverse Impact to existing development from new development
  - Identify areas to keep open for natural flood storage
  - Identify multiple flood incident areas that need a solution – Structural / Non-Structural relocation
- Recognize the ongoing flood plain management/flood control project planning activities of the communities and encourage continuation of the current level of effort.
- Ensure coordination of local projects with regional objectives, the entities in charge should be required to present major flood plain management / flood control project planning activities for review and adoption by the RWPC.
- The water conservation proposal to capture storm water onsite through change in drainage design and standards should be supported, and changes should be implemented if feasible.

## 4.2 Flood Types

Flood hazards in Nevada are typically underestimated due to the arid climate, few perennial streams, and low precipitation. Lack of data and a sparse stream-gaging network also contribute to underestimation of flood hazards as noted in the Summary of Findings. There are different types of flood hazards in Washoe County that require unique management strategies. Truckee River flooding has been of primary concern to the Reno/Sparks metropolitan area for decades. The most recent and costly event occurred in 1997. Also of concern are flooding on Truckee River tributaries, alluvial fan flooding, sheet flooding, flash flooding and lake/playa flooding.

Riverine flooding and alluvial fan flooding are common in Nevada. Riverine flooding occurs when water levels in rivers and streams rise and discharge volumes increase over a period of hours or days. Floodwaters overtop the stream banks and inundate nearby low-lying areas. In Nevada, riverine flooding typically occurs during the winter or spring runoff periods.

Alluvial fans are common landforms in arid areas and are found throughout Nevada. An alluvial fan is a fan-shaped deposit of sediment created where a stream flows out of mountainous or hilly terrain onto the valley floor. The stream may be perennial, intermittent or ephemeral. Alluvial fans are the cumulative result of successive flood events over hundreds or thousands of



years. Alluvial fan flooding occurs when floodwaters emerge from a canyon mouth and travel downstream at very high velocities carrying significant loads of sediment and debris. This type of flooding can occur with little warning and as such would be considered a form of flash flooding.

Steep slopes and high stream flow velocities in mountainous terrain allow floodwaters to erode and transport huge amounts of sediment ranging in size from fine silt and clay to house-sized boulders. As these floodwaters exit the mountains onto an alluvial fan, they spread out and slow down causing deposition of the sediment load. This deposition sometimes plugs the active stream channel at the canyon mouth causing the stream to change course and flow down the fan in a new channel. Alluvial fan flooding is potentially more dangerous than riverine flooding because it is less predictable and the threat is not apparent, therefore it is not often considered during land development. Additionally, the influence of minor grading, roads, and structures can greatly impact and exaggerate damage from alluvial fan flooding. The hazards associated with alluvial fan flooding are compounded by the potential for migration of floodwaters across the width of the fan. Alluvial fan flooding impacts are especially severe on fans where development has occurred without the installation of adequate mitigation measures.

A flash flood is the fastest-moving type of flood. It happens when heavy rain collects in a stream or gully, turning the normally calm area into an instant rushing current. The quick change from calm to raging river is what catches people off-guard, making flash floods very dangerous. Flash flood waters move at very fast speeds. They have the power to move boulders, tear out trees, destroy buildings, and obliterate bridges. Flash flooding on streams emerging from steep canyons in the mountains is another significant flood hazard in Nevada. This term can be used to describe most alluvial fan floods in the Region. Alluvial fan floods are a type of flash flood, but flash floods can occur in areas other than alluvial fans.

Any flood involves water rising and overflowing its normal path. But a flash flood is a specific type of flood that appears and moves quickly across the land, with little warning that it's coming. Flash floods are very unpredictable, and can cause flooding at a significant distance from the precipitation source. Many things can cause a flash flood. Generally they are the result of high intensity rainfall concentrated over one area.

Playa flooding occurs when flows drain into a closed basin. Since there is no outlet, the flows into the playa cause water levels to rise. The water levels don't recede after the rain event like in other flood types. Water only recedes as water leaves the playa through infiltration into the ground and/or evaporation. Therefore playa flooding can happen without a rainfall event happening at the same time. Drainage from any runoff producing storm, or other source of water draining into the playa, fills the basin and continues raising water levels until there is enough infiltration and/or evaporation to reduce the amount of water in the playa, or the drainage stops, and therefore lowers the water level.

Lake flooding is the same as the playa flooding description just mentioned if the lake doesn't have an outlet. Lakes with outlets also flood when the volume of water entering it is greater than the amount of water leaving the lake. This causes the water level to rise. This rise continues until the water is high enough to cause the outlet to release more water than what is coming into the lake.

Rapid population growth is contributing to flood impacts. As more land is developed in river basins, flood plains, lakeshores, playas and alluvial fans, a greater percentage of the population



is exposed to increased flood risk. The severity of flooding and cost of flood recovery will increase, pointing to a need for flood plain management in the region.

### **4.3 Flood History and Regional Setting**

The Truckee Meadows area has a long history of floods. Melting snow, cloudbursts, and heavy general rains have all been causes of floods in the Region. Rain-caused floods, normally occurring from October through March and characterized by high peak flows and short duration, have caused the major flood problems in the area. Flood records indicate that significant damaging flood events have occurred almost every decade since the 1860s. Since about 1960, flood control works consisting of reservoirs and channel modifications, have reduced the magnitude and frequency of flooding in the area. In addition to floods on the Truckee River, numerous flash floods take place throughout the state annually.

The cost of recovery from flood events is rising. Prior to the January 1997 flood event in northern Nevada, damages due to flooding on the Truckee and Carson Rivers totaled more than \$31.5 million. The damage caused by flooding on the Truckee River during the January 1997 event exceeded \$600 million if indirect damages such as lost revenue, wages, and sales taxes are included.

#### **4.3.1 History of Flooding in the Region**

Records of historic flood events in western Nevada begin with 1861 in which the entire Truckee Meadows became a vast lake. Early accounts indicate that flooding or periods of high water occurred during December 1861, January and February 1862, December 1867, January 1886, and May 1890. According to the flood chronology of the Truckee River basin compiled by Victor Goodwin of the US Forest Service in 1977, there had been five major flood events prior to this document. These include the 1861 - 1862, 1867-1868, 1907, 1950 and 1955 events. Recent large flood events have occurred in 1963, 1986 and 1997. A number of lesser magnitude floods have occurred in 1871, 1886, 1890, 1904, 1909, 1914, 1928, 1937, 1942, 1943 and 1964. Goodwin reported that the majority of the flood events covering the time span from 1890 to 1943, except for the few major floods, all were about equal "intensity and resultant damages".

The Truckee River bank-full discharge was historically less than the existing channel conveyance capacity. Channel forming discharges on the order of 4,000 cfs to 6,000 cfs created over bank flows in the Truckee Meadows area. According to Goodwin, flows higher than 5,000 cfs took out one bridge in 1890 and covered 4,000 acres of cropland in the Meadows. The 1907 peak discharge was on the order of 14,600 cfs. The Meadows flooded in 1928 with a peak discharge of 10,000 cfs. The 1937 flood peak discharge was about 15,000 cfs according to the River Water Master as related by Goodwin. In 1943, 11,000 cfs flooded the Truckee Meadows. The Truckee River channel through the upper reach of the Meadows now has a minimum conveyance capacity of about 14,000 cfs following the dredging of the channel by the US Army Corps of Engineers (Corps) in 1964.

The Truckee Meadows area experiences two types of major flooding, warm winter storms in which rain on snow is widespread throughout the watershed, and local convective thunderstorms that will generally produce isolated sub watershed flooding in the summer months. The winter floods are of long duration and large volumes. The inundation of the Truckee Meadows to the east of Reno would last days or even weeks. High snow packs can also produce protracted spring runoff flooding as in the April 20 - May 13, 1890 flood. The 100-



year return period flood event has been based on winter rain on snow events.

### **4.3.2 The Flood of January 1, 1997**

December 1996 was an unusually wet month in northern Nevada. An above-average snow pack had accumulated in the Truckee River drainage basin. A warming trend ensued in late December, followed by the worst possible scenario, rain on a melting snow pack. The frontal storm, which led to flooding in western Nevada, began on December 31, 1996 with rainfall in the foothills west of Reno. During the next three days rain, sleet and some snow was continuous in the Reno/Sparks area, but the overall accumulated rainfall was not extensive in the urban area (1.47 inches at the Reno Airport). In the foothills to the southwest however, National Weather Service Doppler Radar (Nexrad) data indicated that in two areas more than 5 inches of rain fell on the heavy snow pack. Three to five inches of rainfall were estimated at higher elevations. The resulting discharge in the Truckee River continued to increase through the night and the flood stage ultimately crested in Reno at 1:30 a.m. on January 1, 1997. After the flood, the Corps estimated that a 100-year flood event would result in flood flows of 21,000 cfs. The locally accepted peak discharge estimate for January 1, 1997 was approximately 22,000 cfs.

Early in the flood event, Reno bridges began accumulating debris reducing their conveyance capacity. Video footage shows construction equipment (logging tractors) on one bridge attempting to clear the debris off the upstream side of the bridge piers. Removal of the debris resulted in a decrease of one foot in the surging flood stage in the downstream Reno streets. The Truckee River has a varying channel conveyance capacity through the cities of Reno and Sparks. Over bank flooding in the Sparks area started at discharges as low as 11,000 cfs, resulting in significant flooding in the Sparks industrial area. Flooding also inundated and closed the Reno -Tahoe International Airport. Figure 4-1 shows the total area inundated relative to the FEMA 100 year flood zone. Estimates, by the Corps, of damage caused by the 1997 flood were reputed to be in the amount of \$450 million. This figure only includes damages recognized by the Corps that can be used to justify federal expenditures on a flood control project. Local damage estimates exceed \$600 million. Most of the damage was incurred by inundation.

Historically, the greatest flood damages in Washoe County have resulted from Truckee River flooding. There are a number of approaches that have been considered to reduce these flood damages over the past 50 years. The flood of 1997 re-energized the effort to implement measures to reduce the impact of flooding on the community. A strong interest in evaluating options that would also enhance the Truckee River as a community asset, with restoration of the natural flooding functions of both the river and portions of its historical flood plain evolved.

### **4.3.3 Alluvial Fan Flooding in the Region**

Alluvial fan and flash flooding, while not as present in the community's recent memory, has been even more catastrophic than Truckee River flooding in terms of loss of life. In 1956 Galena Creek flooding resulted in four fatalities versus one fatality due to Truckee River flooding in 1997. In some cases, development is progressing on alluvial fans without the benefit of upstream protective measures.

Most recently, alluvial fan flooding occurred during June of 2002 in the Desert Springs area of Spanish Springs Valley where a localized thunderstorm caused a significant amount of sediment to be eroded from Hungry Ridge, immediately west of the developed area, and



deposited in a new subdivision. Water and sediment also caused about \$500,000 in damage to the new and not yet opened Spanish Springs High School. Sediment deposition filled detention ponds above the Eagle Canyon subdivision on the west side of Spanish Springs Valley, decreasing the available storage for floodwater. Water flowed over the emergency spillways of the detention basins and down a channel toward the subdivision. This outflow caused severe erosion in the channels just downstream of the detention dams. When the sediment-laden floodwater met a berm along the edge of the subdivision, sediment deposition occurred again. Some storm water and sediment spilled over the berm into the subdivision where it plugged drainage culverts, storm inlets, storm sewers and streets. Water flowed into most yards in the subdivision and caused erosion of landscaping material and the deposition of sediment. Sediment had to be cleaned from storm sewers, drainage structures and channels, streets, and many lawns in the weeks after the storm.

#### **4.4 Storm Water Management Planning**

The RWPC released a request for proposals in mid-2002 for Storm Water Management Planning. Storm water management planning was a high priority for the RWPC in fiscal year 2002. They identified several issues related to storm water management in the Region, including impacts of current and future development on volume and timing of storm water runoff, increased sediment loads, reduced recharge, inconsistencies in storm drainage design criteria among the communities, and financing storm water management projects to correct drainage deficiencies in existing developments.

Projects to date have included a concept level Flood Control Master Plan (Kennedy/Jenks/Chilton, 1991) and a Draft Hydrologic Criteria and Drainage Design Manual (Washoe County, 1996). WRC Nevada, Inc. was awarded a contract as a result of the above-mentioned request for proposals to develop a final Hydrologic Criteria and Drainage Design Manual and an updated Flood Control Master Plan. Additional projects include the Southern Washoe County Groundwater Recharge Analysis (Kennedy/Jenks, 2001), the Truckee Meadows Regional Storm Water Quality Management Program (Kennedy/Jenks, 2001) and the Truckee Meadows Structural Controls Design Manual – Guidance on Source and Treatment Controls for Storm Water Quality Management (Kennedy/Jenks, 2004).

In addition, the South Truckee Meadows Facility Plan (ECO:LOGIC, 2001) Technical Memorandum No. 6, Flood Detention Ponds and Effect on Flows in Thomas Creek, identifies the impacts of peak flow analysis versus volume management.

Currently, storm water drainage design in most of the region is done on a subdivision-by-subdivision basis, with little consideration for regional drainage needs. As mentioned above, the RWPC is in the process of updating the Hydrologic Criteria and Drainage Design Manual for the Region that addresses the issues outlined above. The expected outcome of this effort would be a set of consistent guidelines for the planning, design and construction of storm water drainage facilities that the RWPC will, upon review and adoption, recommend that Washoe County and the Cities adopt.



## **4.5 Flood Plain Management and Regional Flood Control Master Plan**

### **4.5.1 Flood Plain Management**

Flood plain management consists of planning and implementing programs designed to alleviate the impact of flooding on people and communities. It includes activities such as instituting land use policies and regulations for development in flood prone areas, and restoring and preserving natural resources and functions of flood plains and contributing watersheds. The National Flood Insurance Program (NFIP) establishes minimum requirements for flood plain management that communities must implement in order to be eligible for flood insurance. The NFIP, discussed further in Section 4.6.5, establishes criteria for construction in Special Flood Hazard Areas. This is only one aspect of flood plain management. Flood plain management also includes the proactive management of watersheds to reduce existing and future potential flood hazards.

Flood plain management can include both structural and non-structural measures for mitigating flood impacts. Structural approaches include measures that reduce the amount of floodwater in a stream or contain floodwater in a channel so that it does not inundate nearby areas. Such measures may include detention facilities, levees or dikes and floodwalls. Structural measures built with public money have been used historically to manage existing flood impacts with varying degrees of success. Structural flood controls may require the use of valuable land and natural resources. A structural approach to flood control in existing urban areas can provide a cost-effective benefit to the public. In southern Nevada, the Clark County Regional Flood Control District uses structural controls very effectively to manage flash flooding impacts in developing areas. Washoe County is currently implementing a Regional Flood Control Master Plan, which will also incorporate structural flood control measures, along with other measures.

Non-structural approaches to flood plain management have been gaining adherents as our recognition of the limitations of flood control has increased. The most cost-effective approach to flood hazard protection can be achieved using land use planning and sound flood plain management regulations in flood prone areas. Non-structural approaches to flood plain management include:

- Development of regional master plans for flood management
- Mapping and study of historic flood prone areas
- Implementation of flood plain regulations, including zoning ordinances, subdivision regulations, and building codes that guide development in flood plains and flood prone areas
- Implementation of a development review process at the local or regional level
- Acquisition and removal, or relocation of structures which experience repetitive losses
- Flood proofing existing structures by elevating a building's structure or the infrastructure
- Flood forecasting and warning systems
- Disaster preparedness plans
- Rehabilitation of disturbed watersheds, wetlands, and riparian zones
- Designation of green belts
- Providing education and information to the local communities

Although flood plain management most effectively occurs at the local or regional level, the state



plays an important role. The state's primary functions include coordination between federal and local agencies, education and information dissemination, and management of grant funds passed through from the federal government or the state to the local communities.

The RWPC has developed a regional Flood Plain Management Strategy (RWPC, 2003) that serves as the first step towards a comprehensive regional flood plain management program.

#### **4.5.2 Regional Flood Control Master Plan**

A Draft Flood Control Master Plan was completed for the Region (Kennedy/Jenks/Chilton, 1991). The RWPC has retained WRC Nevada to update this plan. The purpose of the Regional Flood Control Master Plan is to re-evaluate current and future flood risks, and develop potential flood damage reduction measures. It will include cost estimates and a proposed implementation plan that can serve as a guide for future development.

This policy reflects the desires of the RWPC:

***Policy 3.1.a: Regional Flood Plain Management Plan and Regional Flood Control Master Plan***

*The RWPC will, after its review and approval of the Regional Flood Plain Management Plan and Regional Flood Control Master Plan, recommend that local governments adopt and implement those plans.*

#### **4.5.3 Flood Plain Storage Mitigation**

Flood plain storage is a critical component of flood protection. Many properties that were built in compliance with FEMA standards for the NFIP may be at risk because of loss of flood plain storage. The 1997 flood caused over \$600 million in flood damages. The community is proposing to implement a \$260 million flood damage reduction project (Truckee River Flood Management Project). The flood plain storage volume mitigation program seeks to ensure that the Truckee River Flood Management Project remains feasible and to minimize flood impacts in the future.

The fiscal analysis for flood storage volume mitigation remains a very high priority for the Region. The RWPC recommends a cooperative effort with local governments to fund this study to help local governments determine if fees are necessary, how many dollars are needed to implement a program, and how fees might be equitably applied.

***Policy 3.1.b: Flood Plain Storage within the Truckee River Watershed***

*Until such time as Reno, Sparks, and Washoe County adopt and begin to implement the Regional Flood Plain Management Plan and the Regional Flood Control Master Plan, the local flood management staff<sup>1</sup>, using the best technical information available, will work with a proposed project applicant or a proposed land use change applicant to determine the appropriate level of analysis required*

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<sup>1</sup>Each local government has assigned one or more staff members the responsibility of designing and reviewing flood management projects. These staff members are also responsible for reviewing certain proposed projects to address concerns of drainage and flooding.



*in order to evaluate and mitigate the impacts to 100-year flood peaks and flood plain storage volumes. On an annual basis, all three local flood management agencies shall jointly agree on and adopt the “best technical information” available for use in implementation of the Regional Water Plan policies relating to flooding. The local flood management staff would be responsible for coordinating with the other appropriate local government agencies. (Related criteria are located in Chapter 1.)*

The local governments have the responsibility to work together to quantify the impacts of development and land use changes on the Truckee River Flood Management Project. The regional flood plain storage mitigation program intends to discourage small on-site mitigation facilities in favor of connected regional projects or facilities which have been planned and designed to work with natural systems / watershed protection. Local governments also have the responsibility to work together to plan and implement these connected regional flood plain storage mitigation projects.

The RWPC is working with local governments to take the following action steps:

- Develop flood plain storage mitigation options or plans to ensure that an undue burden is not placed on property owners.
- Work in a cooperative manner to implement the Truckee River Flood Management Project, the Regional Flood Plain Management Strategy (RWPC, 2003), and the Regional Flood Control Master Plan (WRC Nevada, in progress). Special attention shall be given to land acquisition and early implementation of the Truckee River Flood Management project elements which are critical to the preservation of flood storage and/or the feasibility of any of the project alternatives.
- Jointly develop and formally adopt the best available technical data on the hydrology and hydraulics of flooding as used by the Truckee River Flood Management Project (being developed in coordination with the Corps). Another of the region’s highest priorities is to immediately complete the hydraulic and hydrologic modeling tools needed to quantify cumulative flooding impacts in the watershed.
- Use best efforts and good faith to jointly develop and present to the RWPC within six months a Regional Flood Plain Storage Mitigation Plan that will be incorporated into the Regional Flood Control Master Plan for its implementation. This will facilitate the ability of property owners to develop their properties and/or participate in regional solutions for mitigation of increased volume of runoff or loss of flood plain storage volume if appropriate. The Regional Flood Plain Storage Mitigation Plan will also provide a mechanism for monitoring and enforcing this element of the Regional Flood Control Master Plan.
- Provide background information and public outreach to ensure support from the community and from elected officials for the region’s interconnected flood policies and projects.

The Regional Flood Plain Storage Mitigation Plan, which will become an element of the Regional Flood Control Master Plan, will address the following:

- Ensure that current flood impacts and flood conditions are “locked into place”. The plan is designed to minimize current flood impacts to existing residents and businesses and also to prevent flood impacts from getting worse over time.
- Properties in Zone 1, as described in Chapter 1, Policy 3.1.b, will be under the most



stringent development constraints because they are in the most critical flood plain storage volume areas. (See Figure 1-2.)

- Properties in Zone 2, as described in Policy 3.1.b, are in a unique situation: displacement of flood plain storage may cause increased flood impacts to nearby properties under current conditions. Once the Truckee River Flood Management Project is implemented, the flood plain storage volume associated with these properties will no longer need to be maintained.
- Properties in Zone 3, as described in Policy 3.1.b, are important areas in terms of flood conveyance under current conditions. Once the Truckee River Flood Management Project is implemented the flood plain storage volume associated with those properties in Zone 3 will no longer need to be maintained. However, current conditions of water volume and peak discharge must be maintained after the project is implemented or the local interior drainage must be designed for future conditions.
- Properties in Zone 4, as described in Policy 3.1.b, may impact the hydrology of the Truckee River Flood Management Project if there is a significant change to the timing, duration or volume of runoff from the property.
- Larger projects will be expected to provide a higher level of analysis and may be required to contribute to the regional solution that provides mitigation for the loss of flood plain storage volume.
- Smaller projects will not be expected to provide undue levels of analysis, but may also be expected to contribute to the regional solution that provides mitigation for the loss of flood plain storage volume.
- Where appropriate, maximize the opportunity to receive credits under FEMA's Community Rating System for protection of properties, which may result in flood insurance premium price reductions under the NFIP.
- Mitigation options will be identified which may include any or all of the following:
  - Local government purchase of existing excess storage volume to be reserved for offsetting the impacts caused by developments
  - Local government implementation of storage mitigation projects to be reserved for offsetting the impacts caused by developments
  - Private developer creation of storage mitigation projects to mitigate the impacts caused by larger developments and/or to sell additional storage for offsetting the impacts caused by developments
  - Creation of a framework to allow local governments to buy and sell storage to offset impacts caused by developments
  - Generally, mitigation should be provided in an area hydrologically or hydraulically connected to the project requiring mitigation in a way that will not increase flood levels by any amount.
  - Early implementation of flood project elements is an option for providing mitigation

Flood plain storage mitigation outside the Truckee River watershed is addressed by the following policy:

***Policy 3.1.c: Flood Plain Storage outside of the Truckee River Watershed***

*As appropriate, the local flood management staff will work with the proposed project applicant or proposed land use applicant to identify the best approach to mitigate the impacts of changes to 100-year flood peaks and flood plain storage volume that are a result of proposed land use changes or proposed projects.*



(Related criteria are located in Chapter 1.)

## **4.6 Legislation and Programs to Address Flood Issues**

### **4.6.1 National Flood Insurance Act / Flood Disaster Protection Act**

Flood protection for the Reno/Sparks metropolitan area and surrounding Washoe County is provided by two mechanisms: (1) flood plain management regulations and (2) flood control projects. Both of these mechanisms are influenced by federal regulations.

The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 offer subsidized flood insurance and flood disaster protection in return for participating communities' implementation of flood plain management regulations as set forth in the National Flood Insurance Program.

### **4.6.2 Disaster Relief Bill**

During the 1997 legislative session, the Disaster Relief Bill (Senate Bill 218, now NRS 353.2735) was passed, which established a state disaster relief account of \$4 million to help communities recover from damages sustained in the event of a disaster. The fund is administered by the Interim Finance Committee, and has been used to provide financial relief following river and flash flooding events in communities throughout the state.

### **4.6.3 Clark County Regional Flood Control District**

Provisions for formation of flood control districts are described in NRS 543. The Clark County Regional Flood Control District was formed under this statute in 1985. It is the only such district in the state. The District is comprised of the county and the five incorporated cities within the county and was created to manage flooding hazards through land use controls, and to fund and coordinate construction and maintenance of flood control structures. Flood control projects are funded by a one-quarter of one percent sales tax. The District has also implemented a comprehensive flood plain management program that includes flood hazard mitigation and mapping. NRS 543 also gives criteria for the formation of flood control districts in counties with population greater than 100,000 and less than 400,000.

### **4.6.4 Flood Hazard Reduction Ordinances**

Washoe County and the Cities of Reno and Sparks have been participants in the National Flood Insurance Program since the mid 1970s. Each jurisdiction has adopted Flood Hazard Reduction Ordinances that establish guidelines and requirements for the development of property within areas determined to be subject to flood damage. Participation in the NFIP ensures the availability of federally subsidized flood insurance and flood disaster relief to property owners within the communities. As part of the program the communities are required to adopt ordinances that regulate development within the 100-year flood plain by elevating structures in the floodway fringe and preventing construction in the floodway.

### **4.6.5 National Flood Insurance Program (NFIP)**

Each jurisdiction has adopted Flood Hazard Reduction Ordinances that establish guidelines and requirements for the development of property within areas determined to be subject to flood



damage. Local communities and counties are responsible for developing and implementing ordinances for management of areas in their communities, which are prone to flooding.

A key component of flood plain management is implementation of the National Flood Insurance Program (NFIP) at the local level. The US Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act. The purpose of the act is to encourage local communities to mitigate future flood damage by adopting and enforcing minimum flood plain management ordinances, thus making the community eligible for federally-subsidized flood insurance.

In Nevada, 15 counties and 13 communities currently participate in this program. Participation allows property owners to purchase federally subsidized flood insurance. The program provides Flood Insurance Studies (FIS) and Flood Insurance Rate Maps (FIRMs) prepared by the FEMA for participating communities. A FIRM designates Special Flood Hazard Areas (SFHAs) within a community that is subject to a “100-year” flood, which means flooding that has a one-percent chance of being equaled or exceeded in any given year.

Adoption of the minimum standards for flood plain management identified in the Code of Federal Regulations (CFR) Title 44, section 60.3, is the primary requirement for participation in the NFIP. The minimum NFIP requirements are flood plain management standards, which are generally applicable nationwide, but that do not take into account unique regional and local conditions. Washoe and Clark Counties have adopted ordinances, which go above the minimum NFIP standard. Counties and communities that do more than the minimum required by the NFIP are eligible for participation in the Community Rating System (CRS), which provides credits in the form of reduced insurance costs for property owners holding flood insurance.

Following completion of the first detailed flood hazard studies (circa 1981-83) in southern Washoe County, the communities were required to adopt flood hazard regulation ordinances that complied with the federal requirements necessary for participation in the NFIP. Prior to the communities’ participating in the NFIP, development within the 100-year flood plain was not regulated to prevent flood damage. The only requirements adopted by the communities were setbacks from the stream bank (riverbank) and construction of storm drains to contain and convey away from properties storm waters from much lower frequency events (5- to 10-year events).

Detailed scientific and engineering studies are performed by the FEMA to identify the flood hazard areas and limited flooding areas. These studies are used by FEMA to prepare FIRMs that are adopted and incorporated by reference into the Flood Hazard Reduction Ordinances administered by each jurisdiction. The initial FIRMs for Washoe County were completed in 1984. Annually, the community meets with FEMA to discuss the need for new studies, or restudies. These new studies or restudies are used to revise the 1984 maps. Some of the current FEMA maps were updated through September 1994. Others, like most of the areas along the Truckee River, have not been changed since the original mapping was done. Finally, a small number were updated in 2001. The Public Works Departments of the City of Reno and the City of Sparks, and the Community Development Department of Washoe County, maintain on file the current FIRMs for the communities.



#### **4.6.6 Federal Emergency Management Agency (FEMA)**

Initially, the Federal Emergency Management Agency (FEMA) places the communities in an emergency program. The communities stay in the emergency program until FEMA completes detailed studies of the areas identified by the communities as being subject to known flooding. During the emergency phase of the program, the communities advise property owners of the potential for flooding and the need to protect their properties but do not have ordinances that require specific building requirements.

#### **4.6.7 FEMA – Project Impact**

Project Impact is FEMA's program for developing disaster resistant communities. This program was initiated in 1998, with the City of Sparks named as the first Project Impact Community in Nevada. Project Impact was developed to help communities take responsibility for mitigating the impact of disasters of all types.

Several federal agencies have programs, which support flood plain management at the state level by providing funding and technical assistance, and facilitating coordination with local communities. FEMA provides technical assistance on flood plain management issues and oversees the NFIP. In addition, FEMA offers flood mitigation programs and technical assistance in updating the State Hazard Mitigation Plan, and funds mitigation projects through grants such as the Hazard Mitigation Grant Program and the Flood Mitigation Assistance Program.

#### **4.6.8 US Army Corps of Engineers**

The US Army Corps of Engineers (Corps) offers both emergency and long-term services for pre- and post-disaster mitigation and response. They perform general investigation studies for flood control, and provide flood plain management planning services, in addition to their role in design and construction of flood retention structures. The Corps has recently proposed a new Flood Hazard Mitigation and Riverine Restoration program, entitled Challenge 21, intended to focus on non-structural solutions to restore river channels that were modified for flood control.

#### **4.6.9 Natural Resources Conservation Service**

The Natural Resources Conservation Service (NRCS) provides services related to measuring and reducing flood hazards and emergency response following a flood event. They conduct flood plain management studies in which ecological resources are cataloged and opportunities for restoring and preserving flood plains are identified. Under the Emergency Watershed Protection program, NRCS provides technical and financial assistance when a natural disaster causes damage in a watershed. Emergency response actions are related to assessing damages and identifying actions.

#### **4.6.10 Western Governors' Association**

The Western Governors' Association (WGA) adopted a policy resolution on Flood Mitigation and Recovery Issues in December 1997. The task force organized by WGA concluded that flood planning and flood plain management are essential elements in reducing flood risk. The task force developed An Action Plan for Reducing Flood Risk in the West (WGA, 1997). The action plan developed by the task force contains 21 recommendations for improving flood plain management and coordination and communication of flood issues.



#### 4.6.11 State Water Plan

Some of the issues identified in the State Water Plan related to flood plain management include:

- Communities participating in the NFIP outside major urban centers have not had access to consistent state-level assistance in implementing and managing their flood plain management ordinances. In some cases, this lack of state assistance, combined with turnover in personnel at the community and county level, and resultant lack of training have made it difficult for local communities to comply with NFIP regulations.
- Alluvial fan or flash flooding is a critical issue for two reasons: a) flash flooding is less predictable than riverine flooding and results in high velocity flows with great erosive capability, and there is a high potential for channel migration to previously unidentified areas; and b) the risk of alluvial fan flooding is either over- or under-predicted due to disagreement on effective models for predicting flows and mapping alluvial fan flood zones among engineering and planning professionals.
- The FIRMs used by the local administrators outside of major urban centers for planning and permitting development are well over five years old. Areas that are currently being developed were never mapped in detail in the original studies. Use of regression equations that are based on generalized hydraulic geometry and do not incorporate site specific geologic and soil type data have resulted in underestimating the extent and depth of flooding. Rapid growth in areas with outdated flood zone maps can result in the construction of homes and businesses in harm's way.
- Flood plain management must be considered an essential ongoing element in local and regional planning; not something that takes place after a flooding event. In a presidentially declared disaster, FEMA sets aside a portion of the total reimbursed damages to fund mitigation work. The State has a Disaster Relief Fund, but funds for preventive mitigation are not currently available.
- To avoid recurrence of losses experienced in the 1997 flood event in northern Nevada, the 1997 State Legislature requested development of a Flood Management Plan for the state.
- The State's Model Flood Plain Ordinance contains the *minimum* NFIP requirements. The minimum NFIP requirements are flood plain management standards, which do not take Nevada's unique regional conditions into consideration. Conditions that make Nevada NFIP requirements (that communities and counties must implement to obtain flood insurance) unique are rapid growth in areas with outdated flood maps, alluvial fan flooding and flash flooding. The State Model Ordinance was developed in 1994, prior to the 1997 flood event in northern Nevada, and needs to be updated to include lessons learned from that event. Further, to adequately prevent flood impacts and keep damages and costs of recovery to a minimum, the state also needs to develop a set of recommended standards over and above the minimum standards established in the model ordinance to reflect Nevada's unique flood management concerns.
- In Northern Nevada, communities located along rivers are incurring increasing costs due to flooding. Growth and development in flood plains has exacerbated flood losses. Further, structural controls can create additional risk of damages due to catastrophic failure during floods greater than the design flow. It is estimated that the 1997 flood would have had a peak flow of about 40,000 cfs if the upstream reservoirs were not in place. Instead the peak flow was about 22,000 cfs. Flood officials nationwide are concluding that existing structural controls, without constant maintenance, are not effective in preventing damages. Studies throughout the west show the benefits of



incorporating non-structural measures such as preservation and restoration of flood plain areas, through zoning and conservation easements, and relocating structures out of flood plain areas.

#### **4.6.12 Regional Plan Settlement Agreement of October 17, 2002**

The Regional Plan Settlement Agreement, effective October 17, 2002, caused the RWPC to develop criteria policies for water and water-related issues for cooperative planning. These policies included some directly related to flood planning. Those policies are adopted into this plan and are found in Chapter 1.

### **4.7 Truckee River Flood Control Efforts**

Federal flood control projects are generally proposed and constructed under Congressional authority and assigned for implementation to various federal agencies. The US Department of Agriculture, Natural Resources Conservation Service (NRCS), under the authority of the Watershed Protection and Flood Prevention Act, designed and constructed four flood detention facilities in Northwest Reno. The City of Reno's responsibility was to provide lands, easements, right-of-way, and operation and maintenance of the facilities.

The US Department of the Interior, Bureau of Reclamation, under authorization of the Truckee River Storage Project Act and the Washoe Project Act, completed construction of Boca Reservoir in 1938, Prosser Creek Reservoir in 1963, and Stampede Reservoir in 1969. The Corps, under authorization of the Flood Control Act of 1954, improved the bank-full capacity of the Truckee River channel to 7,000 cfs from the Glendale Bridge to Vista including removal of the Vista Reefs and removed obstructions downstream from the Truckee Meadows to Pyramid Lake. This work was completed in 1963. Removal of the Vista Reefs resulted in major flooding, bank erosion, and loss of fisheries and wildlife habitat downstream from Vista.

Under the Flood Control Act of 1962, the Corps designed and constructed the Martis Creek Reservoir. This reservoir, along with channel improvements through Reno to improve the Truckee River channel capacities to 14,000 cfs, was completed in 1972. Reno, Sparks, Washoe County, and the Carson-Truckee Water Conservancy District are responsible for maintaining these 1972 channel capacities and the river gages that monitor the flood flows.

In 1971, the Corps completed a flood control management plan for the Truckee River reservoirs. Stampede, Boca, Prosser Creek, and Martis Creek Reservoirs have 65,000 af of flood control space reserved from November to April each year. The operation of the reservoirs for flood control is to be coordinated to limit the flow in the Truckee River at Reno to a maximum of 6,000 cfs. The Corps estimates that the flood control facilities mentioned above have reduced the 100-year flood flows through Reno from 41,000 cfs to 18,500 cfs, which still exceeds the Reno channel capacity (14,000 cfs) and the Sparks channel capacity (7,000 cfs).

In July 1977, the Corps, at the request of Reno, Sparks, and Washoe County, resumed investigation of alternatives for providing flood protection from the Truckee River through the Truckee Meadows. This investigation resulted in an adopted plan in 1985 consisting of channel improvements, levees, and detention facilities. This plan received Congressional authorization in 1988 and design proceeded. An economic re-evaluation office report on the project completed in 1991 indicated that the project had an un-fundable benefit to cost ratio. As a result of that report the project was re-classified to a deferred status. In 1993, Washoe County asked



the Corps to activate and re-evaluate the project. The Corps included funds in fiscal year 1996-97 to initiate the reevaluation.

The Corps, under the authority of the 1948 Flood Control Act, can evaluate, design, and construct small watershed protection projects. At Reno and Washoe County's request, the Corps evaluated the feasibility of a flood detention facility in the Thomas Creek watershed to protect City of Reno and Washoe County citizens. This study determined that the damages to existing residences were insufficient to warrant federal participation in a flood detention facility.

## **4.7.1 Truckee River Flood Management Project**

### **The Truckee River Challenge**

Truckee River flood control remains one of the Region's most significant water management challenges. To protect the Region's most valuable natural resources - land and water - residents of Sparks, Reno, and Washoe County undertook a complex challenge: implement a flood management program that restores the health and vitality of the Truckee River while protecting communities along the river.

Floods cannot be prevented. The Region can, however, reduce flood damage by working with the river. Flooding is a natural part of healthy rivers and ecosystems. High flows and floodwaters cleanse channels of debris, carry gravel downstream for spawning fish, and create healthy riparian habitats. Flood plains, the low, flat lands adjacent to the river, store and slowly release flood flows, reducing flood damage and recharge groundwater. Today, much of the natural flood plain for the Truckee River has been developed or protected for agriculture and the natural process of flooding is gone. But, combining sensitively designed and located flood barriers with benching and terracing techniques can help return the river to a more natural state. This will allow water to spread out naturally across designated open lands during a flood, rather than inundating the developed areas that must be protected. This concept also incorporates designs to reduce the possibility of breaks in flood barriers that lead to catastrophic flooding.

Environmentally sensitive flood management projects can provide flood protection, healthy river ecosystems and habitat preservation, and yet remain natural and unintrusive.

### **Formation of a Community Coalition and a "Living River" Concept**

In order to develop a consensus for a flood plan with public input, Reno, Sparks and Washoe County created a community-based group known as the Community Coalition for Truckee River Flood Management, which works in cooperation with the Corps. Diverse members of the community came together in April 2000 to develop flood management alternatives for Reno, Sparks and neighboring residents on the Truckee River.

The Community Coalition has spent three years developing a community concept for the river that minimizes flood damages while embracing the concept of a "Living River". There is recognition of the Truckee River as a valuable resource to the community and a natural system with beneficial functions in need of restoration and preservation. The concept of restoring and working with natural systems is one that will be expanded as planning is completed for the remainder of Washoe County.

Several alternatives, including the Community Coalition plan alternative, are currently being evaluated by the Corps in their General Re-evaluation of the 1985 project design. This re-



evaluation will become part of the Environmental Impact Statement (EIS) process for this project. The four alternatives being considered are:

1. "No Action"
2. Setback Levees and Floodwalls
3. Setback Floodwalls and Levees with Detention Basin
4. Community Coalition Plan

The Community Coalition is creating a flood protection plan that will benefit residents, businesses, the river, and the communities that surround the river. The Coalition has the support of the community, including residents, businesses, 35 stakeholder organizations, 24 resource and regulatory agencies, and a range of technical consultants, including hydraulic, environmental and geomorphology specialists.

At Community Coalition meetings, members of the public, professional experts, local stakeholder organizations, and agency representatives exchanged ideas about a flood management plan that would work for the entire Truckee River community. The Coalition put in more than 9,000 hours over eight months to develop a consensus for a flood management plan.

### **Evaluating Issues and Options**

The Coalition studied and evaluated previously proposed solutions for the Truckee River. The overwhelming conclusion was that many proposals had problems, including:

- Extremely high floodwalls, up to 18' in some places on top of banks
- Damage to downstream habitat, environment and water quality
- Harm to existing endangered fish populations and river ecosystems
- Need for lengthy and complex re-negotiations of existing agreements
- Increased risk of catastrophic damage from levee failure
- Did not take advantage of principles of watershed management
- Did not create or integrate parks and recreation

To better respond to these complex issues, the Coalition identified six major flood protection goals, and recommendations to achieve those goals, which are the basis of this preliminary flood management plan.

1. Community Safety and Well-Being: Protect public and private property from flood damage
2. River Restoration: Create a living river that supports fish and wildlife habitat, improves water quality, and restores and preserves natural characteristics of the river
3. Downstream Mitigation: Ensure that any increases in downstream flood flows are mitigated
4. River Parkway: Create scenic, accessible, multi-use, fish-friendly river parkways where possible
5. Flood Plain Management: Ensure the plan works over the long-term through responsible management of the adjacent flood plain. Protect the community's investment in flood protection
6. Financial Feasibility: Ensure that the plan is financially suitable for the community and stays within allowed project costs



## Major Coalition Plan Concept Elements

The Coalition Plan recognizes that flood management solutions are evolving to respect a river's natural tendencies and take into account the natural processes and habitats surrounding the river. This Coalition Plan combines unique elements that allow the Truckee River to function as a river, not just a flood channel.

The Community Coalition has spent more than two years developing Truckee River Flood Management Project alternatives. The alternatives being evaluated in the Corps' Integrated General Re-evaluation Report and EIS are based on 2002 conditions and the assumption that future conditions in the region will not cause a net loss of flood plain storage volumes nor changes to the base flood elevation in the project's hydrology.

Local governments need to be especially careful in managing development in the period preceding implementation of the Truckee River Flood Management Project to ensure that flood damages to existing properties are not exacerbated. Any increase in current flood levels during this period will increase flood damages. The following points are made to illustrate the problem:

- The base flood elevation for the January 1997 flood event was approximately 1.6 feet higher than the existing FEMA base flood elevation at the Vista gage. This event was considered to be slightly greater than the 100-year flood event.
- Recently built homes and businesses were constructed based on current ordinance requirements, that is, with the first floor elevated either one or two feet above the FEMA base flood elevation. Structures constructed prior to current ordinances may have been elevated to a lesser extent or not at all. There were more than \$600 million in damages as a result of the 1997 Truckee River flood.
- Information prepared by participants in the Truckee River Flood Management Project Working Group indicates an increase in the base flood elevation of as little as two or three inches over the 1997 flood event could result in the inundation of approximately 1,800 additional homes in the Steamboat Creek area. Other properties throughout the region may also be subject to additional damages.
- Information prepared by WRC Nevada for the RWPC (WRC Nevada, 2003) indicates that loss of flood storage volumes due to development of existing approved land uses within the flood plain on the north and south sides of the river could result in an increase of 0.4 to 0.6 feet in the base flood elevation.

Several constraints were identified during the development of the Truckee River Flood Management Project alternatives that resulted in a proposed project configuration that does not accommodate increased peak flow or volume of runoff during the critical flooding period. This means that other measures must be implemented within the watershed to manage the runoff from future development. Following is a list of some of the key constraints that resulted in the currently proposed project configuration:

- Broad community support is essential to implementing a project of such magnitude. Many objectives must be balanced, including flood damage reduction for properties within the flood plain, continued economic viability of commercial / industrial areas, quality of life for existing residents, enhancement of the river as a community and environmental amenity, mitigation of possible flood damages to downstream communities, and many more.
- Existing businesses and residences within the 100-year flood plain need to be protected.



This could be largely accomplished if the base flood elevation for the 100-year design event could be reduced to the existing FEMA recognized level.

- The alternatives to reducing the base flood elevation are:
  - Build levees and floodwalls, an extremely costly project element that was limited to areas where absolutely necessary for a number of reasons; cost, vulnerability to failure, unacceptable impacts to residences, creation of interior drainage problems, loss of access to the Truckee River, and environmental degradation of the river, to name a few.
  - Increase peak discharge from the Truckee Meadows

Increasing the discharge from the Truckee Meadows has been discussed with downstream communities, and is only acceptable to the point that any potential damages have been mitigated through restoration of the river between Vista and Pyramid Lake. The use of this strategy is limited by existing informal agreements between some of the downstream communities and the project sponsors. The Corps will evaluate an increased downstream discharge in the EIS process. Corps policy for flood control projects will not allow a project to increase the risk of flooding downstream. If a project sends more water downstream, areas that will have increased flooding need to be protected to the level of flood protection they had before construction of the upstream flood project. It is important to note that there are no formal agreements to accept the proposed increase in downstream discharge. Such agreements would be formalized when it can be demonstrated that there would not be an adverse impact to downstream communities.

Corps funding for this project is limited to mitigating existing flood damages. Federal funding is not available to mitigate flood damages that result from future development conditions. Local sponsors do have the option of designing for and fully funding a higher level of protection than required for existing conditions.

With the above constraints identified, it is apparent that in order to develop economically feasible flood damage reduction alternatives, existing conditions must not be aggravated as a result of changes in the watershed. The opportunities to mitigate damages within the flood plain itself are extremely limited. Therefore, increased peak flows that add to the Truckee River flood peak and volume must be mitigated elsewhere within the watershed. Two planning efforts are underway to develop these mitigation strategies: the RWPC Regional Flood Plain Management Strategy (RWPC, 2003) and the RWPC Regional Flood Control Master Plan (WRC Nevada, in progress) (see Policy 3.1.a in Section 4.5 and in Chapter 1).

There are many regional flood control facilities within the Truckee River watershed for which operations need to be coordinated with both the Truckee River Flood Management Project and proposed new facilities developed as a result of the Regional Flood Control Master Plan.



## **4.8 State and Local Storm Water Drainage Programs / Development Codes**

Each local government entity has a number of storm water and flood plain management regulations within their ordinances and codes. A partial listing of these follows:

- City of Reno Storm Water Drainage Program
- City of Sparks Storm Water Utility
- SE Truckee Meadows Storm Water Utility
- North Spanish Springs Storm Water Utility
- Washoe County Development Code – Flood Hazards – Article 416
- Washoe County Development Code – Significant Hydrologic Resources – Article 418
- Washoe County Development Code – Storm Drainage Standards – Article 420
- City of Reno Municipal Code – Wetlands and Stream Environments
- City of Reno Municipal Code – Drainage ways
- City of Sparks Municipal Code – Flood Plain Management

## **4.9 Flood Control Overview by Hydrographic Basin**

This section provides overviews of potential flood control issues relative to other hydrographic basins outside of the Central Truckee Meadows.

### **Tracy Segment Hydrographic Basin (lower Truckee River)**

This reach of the Truckee River has been identified in work done for the Truckee River Flood Management Project and Lower Truckee River Restoration Project as having excellent potential for mitigation of increased flood flows from the Reno/Sparks metropolitan areas if significant restoration efforts are undertaken, including reconnecting the river with its historical flood plain and reintroducing river meanders. There are also water quality, habitat and recreational benefits associated with implementation of a restoration program.

Restoration of this reach of the river is essential to the viability of the Truckee River Flood Management project. Local governments need to recognize this and take the steps necessary to acquire or protect critical flood plain and restoration areas.

### **Warm Springs Valley Hydrographic Basin**

The limited development potential within this hydrographic basin minimizes flood control issues. Flood control requirements for the Specific Plan Area will be incorporated into project development plans. When single-family homes are constructed on large lots, consideration should be given to the potential of flood hazards that may not have been mapped by FEMA.

### **Spanish Springs Valley Hydrographic Basin**

A basin-wide master plan and hydrologic / hydraulic model has been developed for Spanish Springs. When new projects are proposed within the Sparks Sphere of Influence area, project proponents must demonstrate that proposed new facilities are adequate both for existing and build-out conditions. Management strategies in the unincorporated area are moving towards the same methodology.



Key components of the master planned facilities are planned for construction within the unincorporated area. Construction of these facilities is critical to ensure that the capacity of the Spanish Springs Detention Facility in the City of Sparks is not exceeded during flood events.

A funding mechanism for flood control facilities in the unincorporated area is essential. Proposals for new development in the unincorporated area need to be evaluated from a regional perspective to ensure that the effects of increased runoff are manageable within existing facility constraints downstream. The tools used for evaluation should be agreeable to both Washoe County and the City of Sparks.

### **Sun Valley Hydrographic Basin**

A storm water master plan was completed for Sun Valley in the late 1990s that includes the identification of drainage improvements required to route flows from a 10-year recurrence interval storm event, and an evaluation of the possible impacts to the Wildcreek Golf Course dam that could result from a 100-year, 6-hour storm event. Further flood control planning is not anticipated to be required in this hydrographic basin unless there are significant changes to approved land uses.

### **Washoe Valley Hydrographic Basin**

There are a number of flood hazards within this hydrographic basin, including alluvial fan flooding, lake flooding during wet years, riverine flooding of creeks and landslides. A comprehensive flood control master plan for this hydrographic basin has not been developed.

### **Truckee Canyon Hydrographic Basin (Verdi)**

A comprehensive flood control master plan for this hydrographic basin has not been developed. Significant changes to land use would require the development of such a plan and an evaluation of the possible impacts to the Truckee River flood plain in the Central Truckee Meadows.

### **Stead / Lemmon Valley Hydrographic Basins (combined)**

The Stead / Lemmon Valley is a topographically closed basin. Precipitation that falls within the basin generally stays within the basin. Hydrologic studies have been prepared for the Silver Lake and Swan Lake drainage basins. Future changes to flood peaks and flood plain storage volume, particularly in the Swan Lake basin, will need to be evaluated to ensure that the effects of increased volumes of runoff are manageable. A Drainage Master Plan for Stead, Nevada (Stantec Consulting, 2002) has been prepared for the City of Reno to provide a comprehensive drainage document specifically for the Lemmon Valley hydrographic basin to identify present condition flooding and problem areas so that capital flood improvements could be scheduled.

### **Antelope Valley Hydrographic Basin**

The limited development potential of this hydrographic basin has not justified significant planning for flood control. An analysis of the potential for flood hazards that might not have been mapped by FEMA should be performed when projects for development are proposed.

### **Bedell Flat Hydrographic Basin**

The limited development potential of this hydrographic basin has not justified significant planning for flood control. An analysis of the potential for flood hazards that might not have been mapped by FEMA should be performed when projects for development are proposed.



### **Dry Valley Hydrographic Basin**

The limited development potential of this hydrographic basin has not justified significant planning for flood control. An analysis of the potential for flood hazards that might not have been mapped by FEMA should be performed when projects for development are proposed.

### **Red Rock Valley Hydrographic Basin**

The limited development potential of this hydrographic basin has not justified significant planning for flood control. An analysis of the potential for flood hazards that might not have been mapped by FEMA should be performed when additional projects for development are proposed.

### **Cold Springs Valley Hydrographic Basin**

Cold Springs Valley is a topographically closed basin. Imported water and precipitation that falls within the basin generally stays within the basin. Hydrologic studies have been prepared for the White Lake drainage basin. Future changes to flood peaks and flood plain storage volume will need to be evaluated to ensure that the effects of increased volumes of runoff are manageable.



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Exhibit 7

Exhibit 7



**Resubmittal of  
Tentative Map  
for  
Lancer Estates**

**Submitted by :  
Lancer Limited**

**July 1990**

**cfa**

Fritz v. Washoe Opp to MSJ 000066



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Title Sheet .....	attached
Tentative Map (2 sheets) .....	attached



## PROJECT DESCRIPTION

Lancer Estates is a proposed single-family subdivision located in the southern portion of the Truckee Meadows. (Refer to Figure 1.) The 156-acre site is bounded by the Mt. Rose Highway on the south, Saddlehorn Subdivision on the west, the government tracts on the north, and Phases I & II of Lancer Estates (a.k.a. Shadowridge Village) on the east. The proposed project consists of 231 single-family residential units on lots ranging in size from a minimum of 1/3 acre to over 1 acre. The average lot size is 1/2 acre.

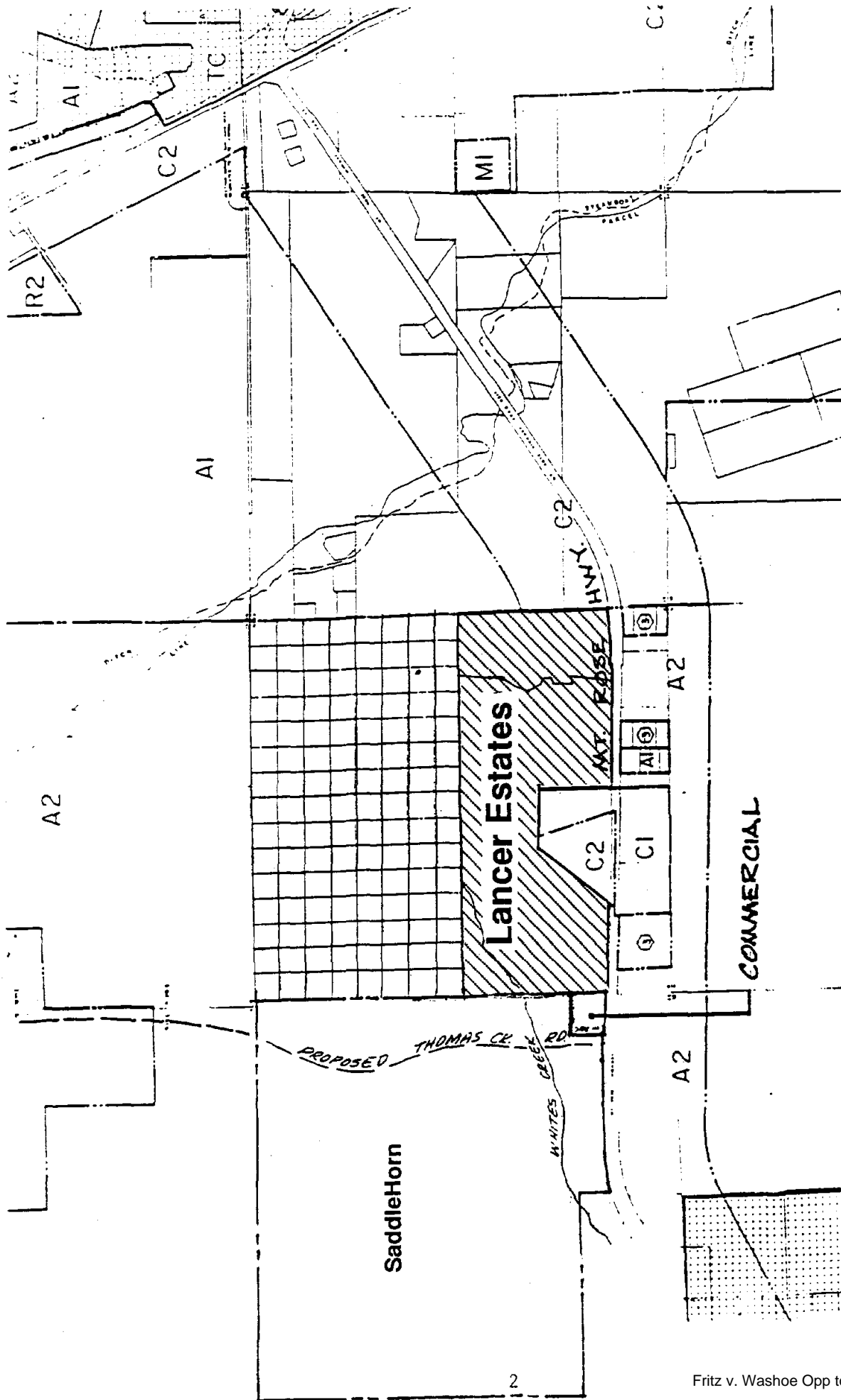
Lancer Estates was originally approved by the Board of County Commissioners on June 12, 1984. (Case Numbers C3-13-84 & TM 3-12-84). For reference, the conditions of approval are presented in Appendix E. The approval was for 300 lots that ranged in size from 1/3 acre to 1 acre. On November 29, 1984, a final map for Phase I, which encompassed 33 lots, was recorded. Then, on September 24, 1985, a final map for Phase II, which included 36 lots, was recorded. The project was allowed to expire in September 1986 primarily because of the poor market conditions for single family homes that existed at the time.

Currently, the market for single-family homes is good and, with the construction of the Galena High School, the market conditions in the South Truckee Meadows should be especially strong. As a result, the owners of the property are resubmitting the tentative map for Lancer Estates. The tentative map for this resubmittal is very similar to the original tentative map. The primary changes are in the lot configuration on the western portion of the site and the addition of an 80-foot buffer along the Mt. Rose Highway.

This submittal package consists of the following applications:

- A. Change of Land Use - The current zoning is E-1, E-2, E-3, & A-R. The change of land use request is primarily aimed at simplifying the multitude of zoning classifications that currently exist on the property. (Refer to Figure 2.) The requested zoning classifications are E-1, E-2, & A-R, which are arranged in a much





N.T.S.



PLANNING

# VICINITY MAP

**cfa**



more simplified manner. As shown in Figure 3, the primary changes are located in the western portion of the site and consist of eliminating the E-2 & E-3 classifications, rearranging the A-R classification, and expanding the E-2 classification.

Washoe County may want to consider initiating a zone change for the park site since the zoning on this parcel is a mixture of A-R, E-2, and E-1. The most appropriate zoning would be A-R.

- B. Tentative Subdivision Map - To permit development of a 231-lot single-family residential subdivision, which represents the remainder of the lots from the original approval.

## **SITE PLAN**

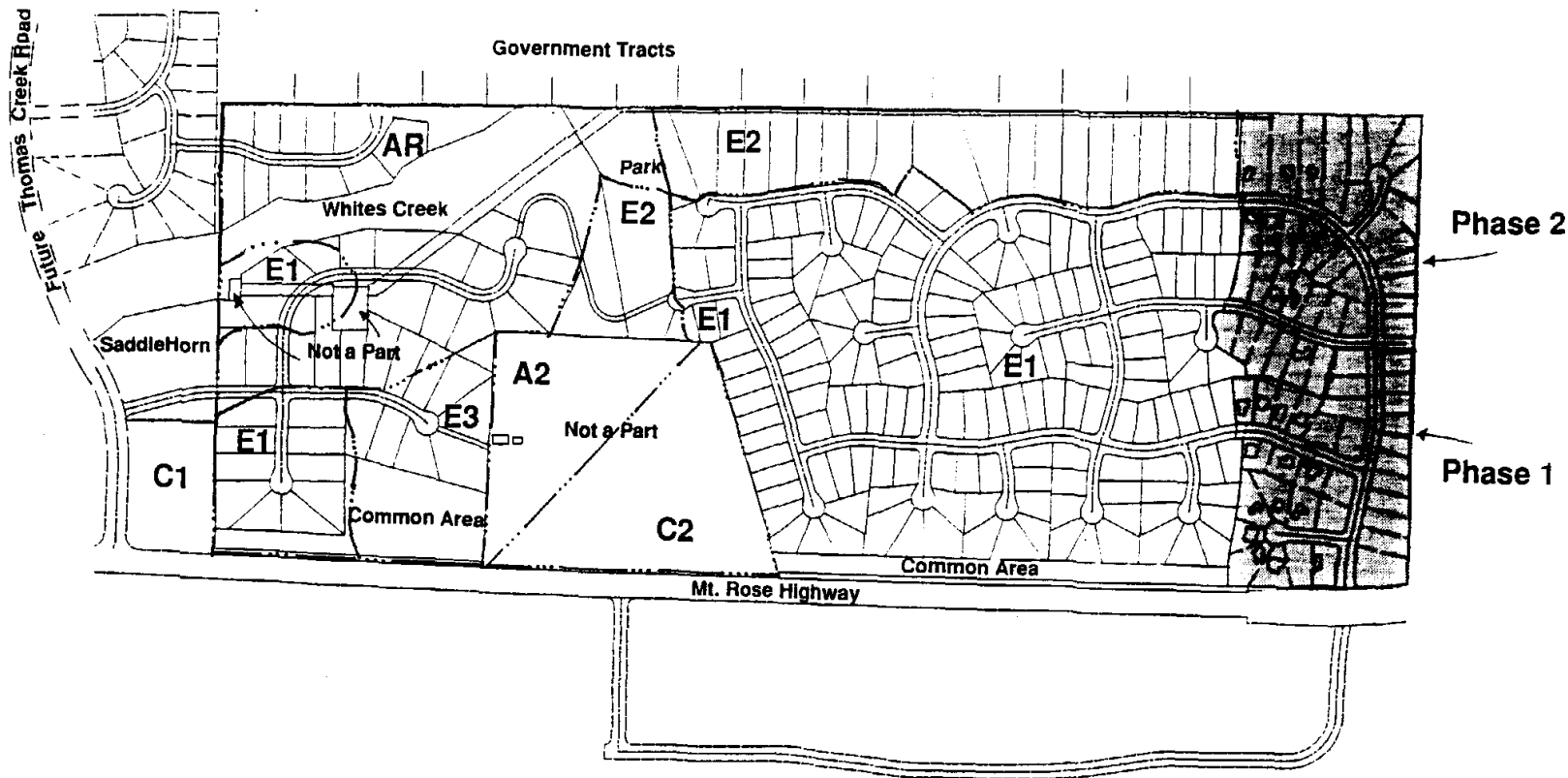
The proposed site plan consists of 231 lots for single-family residential use. The minimum lot size is 15,000 square feet, however, the overall average lot size is 1/2 acre. The site plan endeavors to provide a buffer between Lancer Estates and the 5-acre lots in the government tracts. This has been accomplished through the use of larger lots (1/2 acre to 1 acre) along the northern boundary of the property.

Of the 156 acres, 21 acres (14 percent) will be used for common area and open space, 22 acres (14 percent) will be occupied by streets and easements for the Washoe County Utility Division, and the remaining 113 acres (72 percent) will be devoted to single-family residential development. The net density of the project is 1.71 dwelling units per acre.

Some of the significant features of the site plan are:

- A. Common Area - Nine (9) acres along the southern portion of the site are devoted to common area. This area includes an 80-foot wide buffer along the Mt. Rose Highway and rock outcroppings near the southwestern corner of Lancer's Hill.



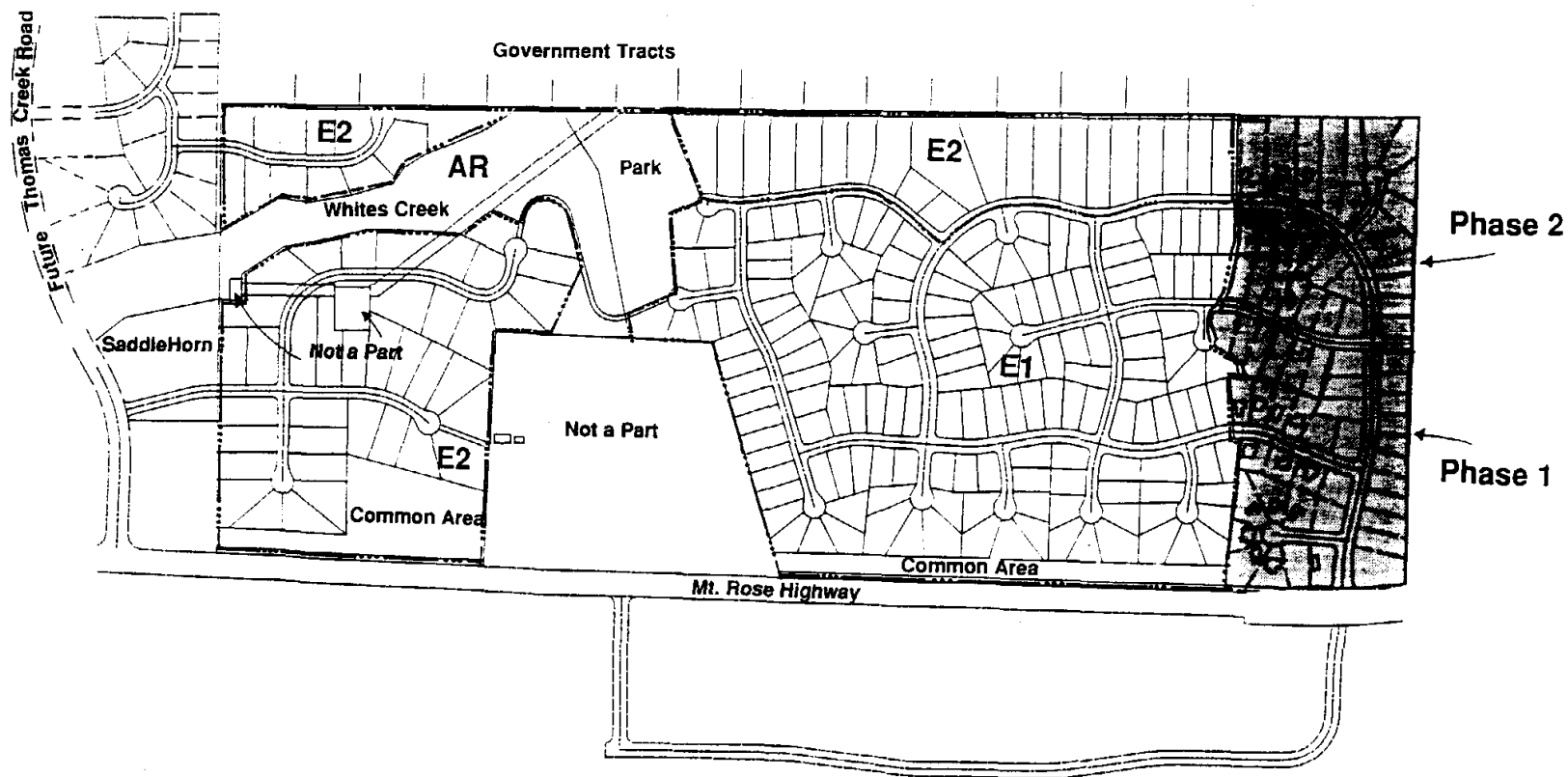


**Lancer Estates  
Subdivision**

**Existing Zoning**

Fritz v. Washoe County - Case No. 67660 - Bates No. 000193





# **Lancer Estates Subdivision**

## **Proposed Zoning**

**Figure 3**

Fritz v. Washoe County - Case No. 67660 - Bates No. 000194

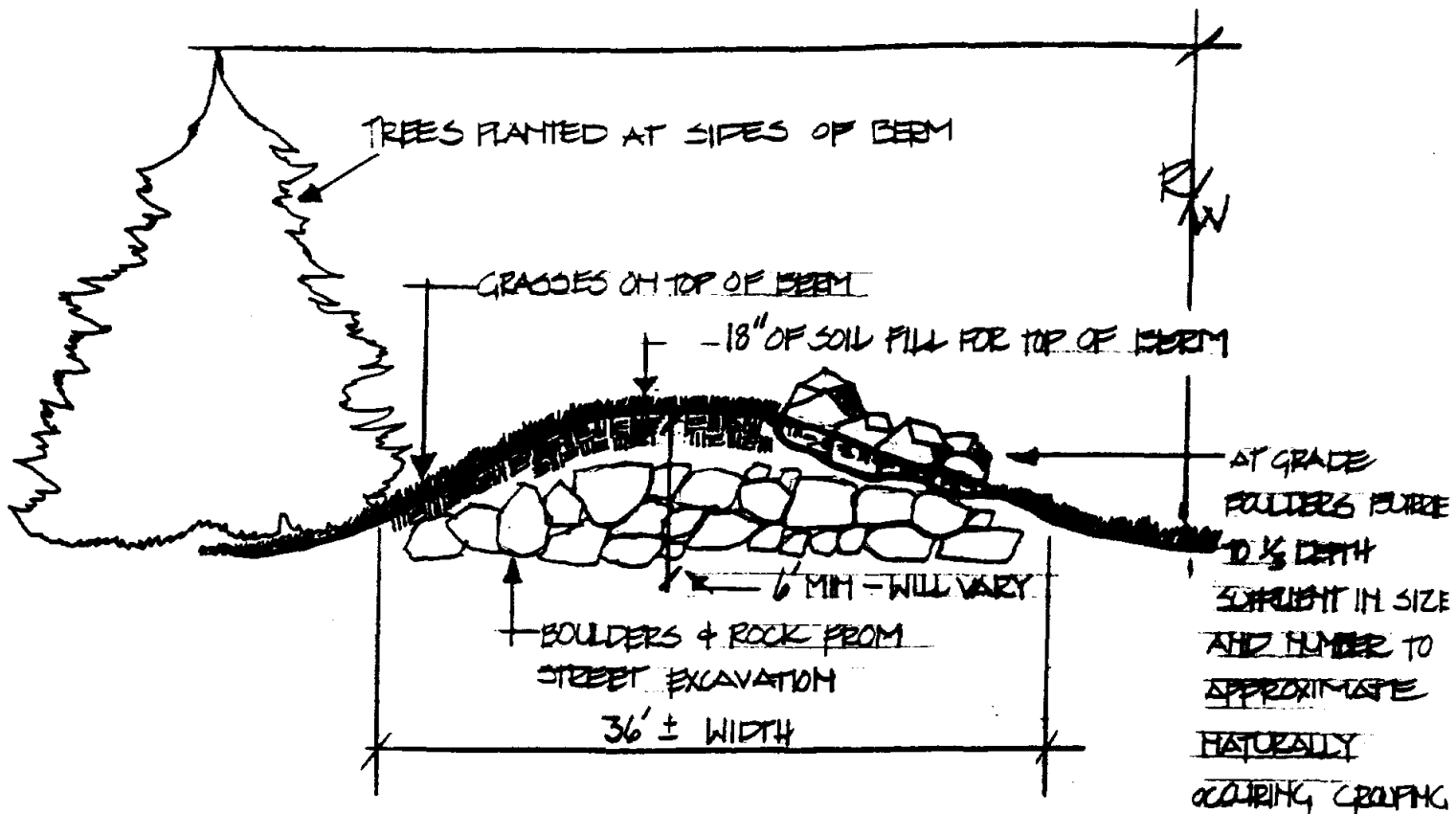


Noise from the Mt. Rose Highway was an issue with the initial approval. To alleviate this problem, a 6-foot wall was proposed and has been constructed within Phase I. This solution was somewhat controversial, because it was felt that a wall was an "urban" solution and was undesirable along the Mt. Rose Highway. The bermed, buffer area as now proposed should be more in keeping with the rural character of the area.

As shown in Figure 4, the berm is proposed to be a minimum of 6 feet in height, with maximum 3:1 side slopes, and an average width of 36 feet. The berm will meander within the 80-foot landscaped strip for a more natural appearance. Excess rock from road excavation will be used to fill the bottom portion of the berm. An 18-inch fill soil cap will be added to the top and sides to support grasses, such as crested wheat varieties. Trees will not be planted on the berms but on one side or the other, depending on berm location. They will be predominantly evergreens for wind and sound control. Larger rocks will be placed into the mounds so that two-thirds of the rock is above ground. These rocks will be on the street side of the berm and made to resemble the existing rock outcrops in the area. The common areas will be maintained by the Homeowner's Association.

- B. **Open Space** - The developers propose to dedicate 11 acres along Whites Creek to Washoe County. This linear park will connect with the land dedicated by Saddlehorn and with the 6-acre park that was dedicated as part of the initial phases of Lancer Estates.
- C. **Mt. Rose Highway** - Twenty-five (25 ) feet will be dedicated for the future widening of the Mt. Rose Highway.
- D. **Streets** - Sundance Drive and portions of Solitude Drive are shown with a 60-foot right-of-way since they collect traffic from throughout the subdivision. All other streets have a 50-foot right-of-way. All streets will be public.





- NOTES :
- 1.) BERM TO BE CONSTRUCTED OF ON SITE EXCAVATED MATERIAL PLACED AND COMPACTED SO THAT COARSE AND FINE MATERIALS ARE BLENDED TO MINIMIZE VOIDS.
  - 2.) BERM SOIL TO BE COVERED WITH 18" OF FILL TO ACCOMODATE ROOT GROWTH FROM GRASSES.
  - 3.) IRRIGATION TO BE DRIP FOR TREES AND FIXED SPRAY HEADS FOR GRASSES.
  - 4.) GRASSES TO BE 2 LBS / AC 'COVAR' SHEEP FESCUE. 8 LBS / AC 'FAIRWAY CRESTED WHEATGRASS. 10 LBS / AC 'SODAR' STREAMBANK WHEATGRASS. THE STATED RATES ARE FOR DRILL SEEDING . IF BROADCAST SEEDING IS USED, THE RATES WILL BE INCREASED BY TWICE. SEED IS PURE LIVE SEED.
  - 5.) SEE FINAL MAP FOR MOUNDING AND PLANTING LAYOUT.

N.T.S.



- E. **Development Program** - Lancer Estates may consist of as many as eleven phases, including the two phases that have already been recorded. Future development will commence at the eastern portion of the site and move westward. Construction of the third phase is expected to begin during the spring of 1991. It is understood that adequate emergency access must be maintained with all phases.

#### ENVIRONMENTAL FEATURES

Environmental features (e.g., topography, soils, geology, flood hazards) were discussed in the initial submittal package and remain unchanged.

#### INFRASTRUCTURE/SERVICES

Again, much of the discussion that was presented with the initial submittal package remains unchanged. Water service is available from the South Truckee Meadows General Improvement District (STMGID). Sewer service is available from Washoe County via an 18-inch line that has been installed in Sundance Drive.



# WASHOE COUNTY DEVELOPMENT APPLICATION

## ACTION REQUESTED:

FOR PLANNING DEPT. USE ONLY  
CASE NUMBER(S)      FEE

	ABANDONMENT		
	ADMINISTRATIVE WAIVER		
x	CHANGE OF LAND USE DISTRICT		
	DIVISION INTO LARGE PARCELS		
	MAJOR PROJECT REVIEW		
	PARCEL MAP		
	SPECIAL USE PERMIT (BOA)		
	SPECIAL USE PERMIT (M-E) (WCPC)		
x	TENTATIVE SUBDIVISION MAP		
	VARIANCE		

TOTAL FEE \_\_\_\_\_  
REC'D BY \_\_\_\_\_  
DATE \_\_\_\_\_  
ACCEPTANCE DATE \_\_\_\_\_

PROJECT NAME: Lancer Estates  
 PROJECT DESCRIPTION: A 231-unit single family residential subdivision  
 PROJECT ADDRESS: North side of Mt. Rose Highway across from Galena High School  
 PROPERTY SIZE: 156.93 acre ASSESSOR'S PARCEL NO(S): 49-401-01, 02, 03, & 04  
 LEGAL DESCRIPTION OF PROPERTY: SECTION 30 TOWNSHIP 18N RANGE 20E  
 LOT N/A BLOCK N/A SUBDIVISION N/A  
 EXISTING ZONING: E-1, E-2, E-3 & A-R PROPOSED ZONING: E-1, E-2, & A-R  
 EXISTING LAND USE: Vacant

(PLEASE ATTACH LEGAL DESCRIPTION)

### PROPERTY OWNER:

NAME: Lancers Limited  
 ADDRESS: P.O. Box 2903  
Reno, NV ZIP 89505  
 PHONE: 702-786-4700  
 CONTACT PERSON: Don Ekins  
 PERSON AUTHORIZED TO REPRESENT P.O.:

### PERSON/FIRM PREPARING PLANS:

NAME: CFA  
 ADDRESS: 1150 Corporate Blvd  
Reno, NV ZIP 89502  
 PHONE: 786-1150  
 CONTACT PERSON: Brita Tryggvi

### APPLICANT/DEVELOPER:

NAME: Lancers Limited  
 ADDRESS: P.O. Box 2903  
Reno, NV ZIP 89505  
 PHONE: 702-786-4700  
 CONTACT PERSON: Don Ekins

### OTHER PERSON TO BE CONTACTED:

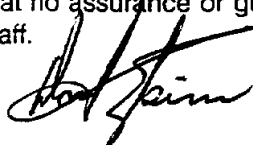
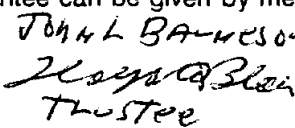
NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_ ZIP \_\_\_\_\_  
 PHONE: \_\_\_\_\_



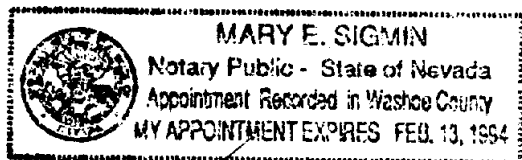
## OWNER AFFIDAVIT

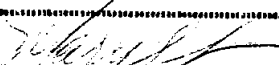
STATE OF NEVADA     )  
                                  ) ss:  
COUNTY OF WASHOE    )

I, Don J. Ekins, Lloyd E. Blair and John L. Barneson Trust  
being duly sworn, depose and say that I am an owner of property involved in this petition and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. Applicants are hereby advised that no assurance or guarantee can be given by members of the Department of Comprehensive Planning staff.

 Don J. Ekins  
 Lloyd E. Blair  
Trustee Signed John L. Barneson

Subscribed and sworn to before me this 23rd day of JULY, 19 90



  
Notary Public in and for said county and state

My commission expires: FEB. 13, 1994

## WASHOE COUNTY

### DEPARTMENT OF COMPREHENSIVE PLANNING

1001 E. NINTH STREET  
P.O. BOX 11130  
RENO, NEVADA 89520  
PHONE: (702) 328-3600



**SUPPLEMENTAL INFORMATION**  
**CHANGE OF LAND USE DISTRICT APPLICATION**

ALL QUESTIONS MAY BE ANSWERED ON SEPARATE SHEETS

QUESTIONS PRECEDED BY (\*) MUST BE ANSWERED

1. **PLANNING AREAS**

(a)\* In what planning area is this property located? Southwest Truckee Meadows

(b)\* Is the request in conformance with the provisions of the adopted area plan?

Yes ☐ No ☐

If the answer is yes, briefly discuss why: The project is consistent with the adopted 1984 Southwest Truckee Meadows Area Plan. Planning Department staff have been updating the 1984 Plan and in October\*

If the answer is no, briefly discuss what the advantages to the area would be if the request were to be granted: \_\_\_\_\_

(c)\* Do any other planning policies, such as those in the Comprehensive Regional Plan, support this request?

Yes ☒ No ☐

If the answer is yes, identify which policies and why they would support the request: The project is supported by the following policies from the Washoe County Master Plan: G.5.4.1, G.5.6.1, G.5.6.2., G.6.1.1., G.6.3.3., G.6.4.2, G.6.6.

(d)\* Hydrobasin: Truckee Meadows

2. **PROJECT**

(a)\* Is this request for a specific project? Yes ☒ No ☐

If the answer is yes, please submit the following information and attach plans:

No. of dwelling units 231 Single-family residential lots

\* 1989, the Board of County Commissioners referred the plan back to the Planning Commission for further study. Staff was directed to work with the CAB and the property owners to revise the plan. This effort is now being initiated by Planning Department staff.



Total square footage:

Retail	N/A
Office	N/A
Tourist	N/A
Light Industrial	N/A
Heavy Industrial	N/A
Other	N/A
Total number of PERMANENT employees	N/A

If the answer is yes, describe any needed improvements to community services that will be required to assist in the development of the proposed project: All community services are available to the site. It is simply a matter of extending these services into the future phases.

If the answer is yes, where is the nearest similar use located? To the west and northwest is Saddlehorn, which is an approved single family residential subdivision with lots ranging in size from 15,000\*

If the answer is no, why is this change being requested at this time? \_\_\_\_\_

3. ZONING (EXISTING/REQUESTED)

(a)\* Number of acres in each zoning category:

Existing (Approximate) E-1 87ac; E-2 25ac; E-3 11ac; A-R 34ac  
Proposed (Approximate) E-1 80ac; E-2 65ac; A-R 12ac

4. RESTRICTIONS

(a)\* Are there deed restrictions or covenants, conditions and restrictions (CC&R's) affecting the property?

Yes X No \_\_\_\_\_

If the answer is yes, what type (attach a copy):

Private	_____	Expiration date	_____
Subdivision	<u>X</u>	Expiration date	<u>None</u>

If yes, do they affect the uses allowed under the proposed zoning?

Yes \_\_\_\_\_ No X

If yes, describe how: \_\_\_\_\_

\*square feet to 1 acre. The government homesites are located to the north. These homesites are generally 5 acres in size and sporadically developed.



5. NATURAL/LANDMARK FEATURES

- (a)\* Are any of the following natural constraints located on the property (attach a map identifying and locating them on the property)?

None	_____	Earthquake fault	_____
Landslide area	_____	Overly steep slope	_____
Avalanche area	_____	(+30% grade)	_____
Flood-prone area	<u>x</u>	High water table	_____
Rare fish, fowl, animal	_____	Other (describe)	_____
or plant material	_____		_____

If any item, other than NONE, is marked, discuss what measures will be taken to reduce or eliminate the effect of these constraints on development:

The 100-year flood boundary of Whites Creek is shown on the tentative map. (The source for this information is Panel No.)\*

- (b)\* Are there any historical or unique natural or manmade landmarks located on the property? Yes x No \_\_\_\_\_

If yes, describe the landmark: Rock outcroppings are located near the Southwestern portion of the site. There is also a water tank\*\*

If yes, discuss what measures will be taken to preserve or enhance the landmark:

The rock outcroppings are located in the area identified as common open space near the Mt. Rose Highway. No development is proposed in the area in which the outcroppings are located.

6. SERVICES

SEWER:

- (a)\* What facilities are currently provided on or for the property?

None	_____	Septic	_____
Private Community	_____	Provider	_____
Public Community	<u>x</u>	Provider	<u>STMGID</u>

If NONE, what type of sewer system is proposed?

Septic	_____	Provider	_____
Private Community	_____	Provider	_____
Public Community	_____	Provider	_____

If NONE, when will the system identified be available?

1-3 yrs \_\_\_\_\_ 3-5yrs \_\_\_\_\_ 5+yrs \_\_\_\_\_

\*1501 of Flood Insurance Rate maps.

\*\*and pump house that is owned and maintained by the Washoe County Utility Division



WATER:

- (b)\* What facilities are currently provided on or for the property?

None \_\_\_\_\_ Individual well \_\_\_\_\_  
Sierra Pacific Power Company \_\_\_\_\_  
Private Community \_\_\_\_\_ Provider \_\_\_\_\_  
Public Community \_\_\_\_\_ X \_\_\_\_\_ Provider STMGID

If NONE, when will the system identified above be available?

1-3 yrs \_\_\_\_\_ 3-5yrs \_\_\_\_\_ 5+yrs \_\_\_\_\_

- (c)\* Are water rights to be dedicated to Washoe County either for the development of the property or pursuant to certain area plans? Yes \_\_\_\_\_ No \_\_\_\_\_

Sufficient water rights to serve the

If YES, answer the following: entire project have already been dedicated to Washoe County

Amount: \_\_\_\_\_ acre feet

Type (include certificates and/or permit numbers and copies):

Permitted \_\_\_\_\_ Certificated \_\_\_\_\_  
Use: Agricultural \_\_\_\_\_ Grazing \_\_\_\_\_  
Municipal/Industrial \_\_\_\_\_  
Other (describe) \_\_\_\_\_

TRANSPORTATION:

- (d)\* Is there a public transportation system (such as a bus) that serves the property or the immediate vicinity?

Yes \_\_\_\_\_ Provider \_\_\_\_\_  
No X \_\_\_\_\_

If yes, how close is the nearest pick-up point?

Less than 500 feet \_\_\_\_\_  
Between 500 feet and 1/4 mile \_\_\_\_\_  
Between 1/4 mile and 1/2 mile \_\_\_\_\_  
Over 1/2 mile \_\_\_\_\_

- (e)\* Is this property served by a paved street?

Yes X \_\_\_\_\_ Name of street Mt. Rose Highway (SR431)  
Estimated date of completion \_\_\_\_\_  
No \_\_\_\_\_

- (f)\* Name of the nearest major street or highway:

Mt. Rose Highway



FIRE:

(g)\* Fire protection agency:

Volunteer  
Public

Provider X Provider Nevada Division of Forestry

(h)\* Name/location of closest fire station:

Galena Creek Station 2, which is located west of Callahan

Estimated response distance to property:

1 mile or less	<u>        </u>	1-5 miles	<u>X</u>
5-15 miles	<u>        </u>	+ 15 miles	<u>        </u>

POLICE:

(i)\* Police protection agency

Private  
Sheriff

Provider X Provider         

(j)\* Name/location of closest sub-station:

911 Parr Boulevard

Estimated response distance to property:

1 mile or less	<u>        </u>	1-5 miles	<u>        </u>
5-15 miles	<u>X</u>	+ 15 miles	<u>        </u>

EDUCATION:

(k)\* Name of nearest school by category listed below and estimated distance from nearest school to property:

Elementary	Brown Elementary School	2	mi.
Middle	Pine Middle School	6	mi.
High	Wooster High School	10	mi.

(Galena High School is scheduled to open in the Fall of 1992. It is located directly across the Mt. Rose Highway from this development.)

PARKS AND RECREATION:

(l)\* Name of park closest to property:

A 6-acre neighborhood park site was dedicated to Washoe County by the developers of this project. The site is partially developed.  
Distance to property:

0-1 mile	<u>X</u>	1-2 miles	<u>        </u>	+ 2 miles	<u>        </u>
----------	----------	-----------	-----------------	-----------	-----------------



Park is owned by:

City \_\_\_\_\_ County X State \_\_\_\_\_

7. PRESENT USE

Vacant X Residential \_\_\_\_\_ Agricultural \_\_\_\_\_  
Commercial \_\_\_\_\_ Industrial \_\_\_\_\_  
Mix of uses (specifically identify) \_\_\_\_\_

8. COMMENTS

This space may be used for any additional statements in support of this request.

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**SUPPLEMENTAL INFORMATION  
TENTATIVE MAP APPLICATION**

General location: North side of the Mr. Rose Highway, north of Galena High School and 1.5 miles west of U.S. 395.

Hydrobasin: Truckee Meadows

No. of acres in each zoning category: Proposed zoning: E-1 80 acres, E-2 65 acres, A-R 12 acres.

No. of lots/units in each zoning category: E-1 - 141 lots, E-2 - 70 lots

Total number of lots: 231 Lot development X Home sales X

Density of project:

Gross density: 1.47 dwelling units per acre 231 lots/156.9 acres

Net density: 1.71 dwelling units per acre 231 lots/(156.9 acres-22.1 acres)

Acreage in streets: Public 22.1 Private 0

parking: Public 0 Private 0

common area: Public 0 Private 9.3

parks: Public 11.4 Private 0

school site: Public 0 Private 0

(The applicant proposes to dedicate an additional 11.4 acres along Whites Creek to tie in with the 6-acre park site that was dedicated previously.)

Average lot size: (156.9 acres - 22.1 acres - 9.3 acres - 11.4 acres) 231  
lots = 0.49

Utilities:

Sewer service ~~STMGID~~ Washoe County

Water service STMGID. A water system was constructed and dedicated to Washoe County by the applicant.

If water rights are to be dedicated, indicate the type and quantity of water rights you have available:

       permitted,        acre feet/year

       certified,        acre feet/year

Who holds title to these rights: With development of the initial phases of this project, sufficient water rights were dedicated to Washoe County to serve the entire 300 unit subdivision.

All other       

Community services:

Fire protection agency Nevada Division of Forestry

Police department Washoe County Sheriff's Department



Health care facility Washoe Medical Center, St. Mary's Regional Medical Center

Schools Brown Elementary School, Pine Middle School, Wooster High School

(Galena High School is scheduled to open in Fall 1992)

Parks As part of this project, a 6-acre neighborhood park site was dedicated to Washoe County. Currently, the turf and irrigation system have been installed.\*

Streets: Minimum width \_\_\_\_\_ Right-of-way 50 feet

Public X Private \_\_\_\_\_

**Environmental factors:**

Is your proposed project within the 100 year flood plain as shown on the adopted Federal Emergency Management Agency's Flood Boundary and Floodway Maps? Yes If yes, please locate those areas on your tentative map.

Describe what methods of erosion control are to be used during construction. Reseeding as directed by Washoe-Storey Conservation District.

**DENSITY OR CLUSTER SUBDIVISION:**

If the proposed subdivision is a density transfer or cluster development, a special use permit is required. Please provide the following information where different from the minimum requirements as set forth in the zoning ordinance.

Lot sizes: Minimum \_\_\_\_\_ Maximum \_\_\_\_\_

Minimum setbacks: Front \_\_\_\_\_ Rear \_\_\_\_\_ Side \_\_\_\_\_

What improvements are proposed for common area: \_\_\_\_\_

Who maintains: \_\_\_\_\_

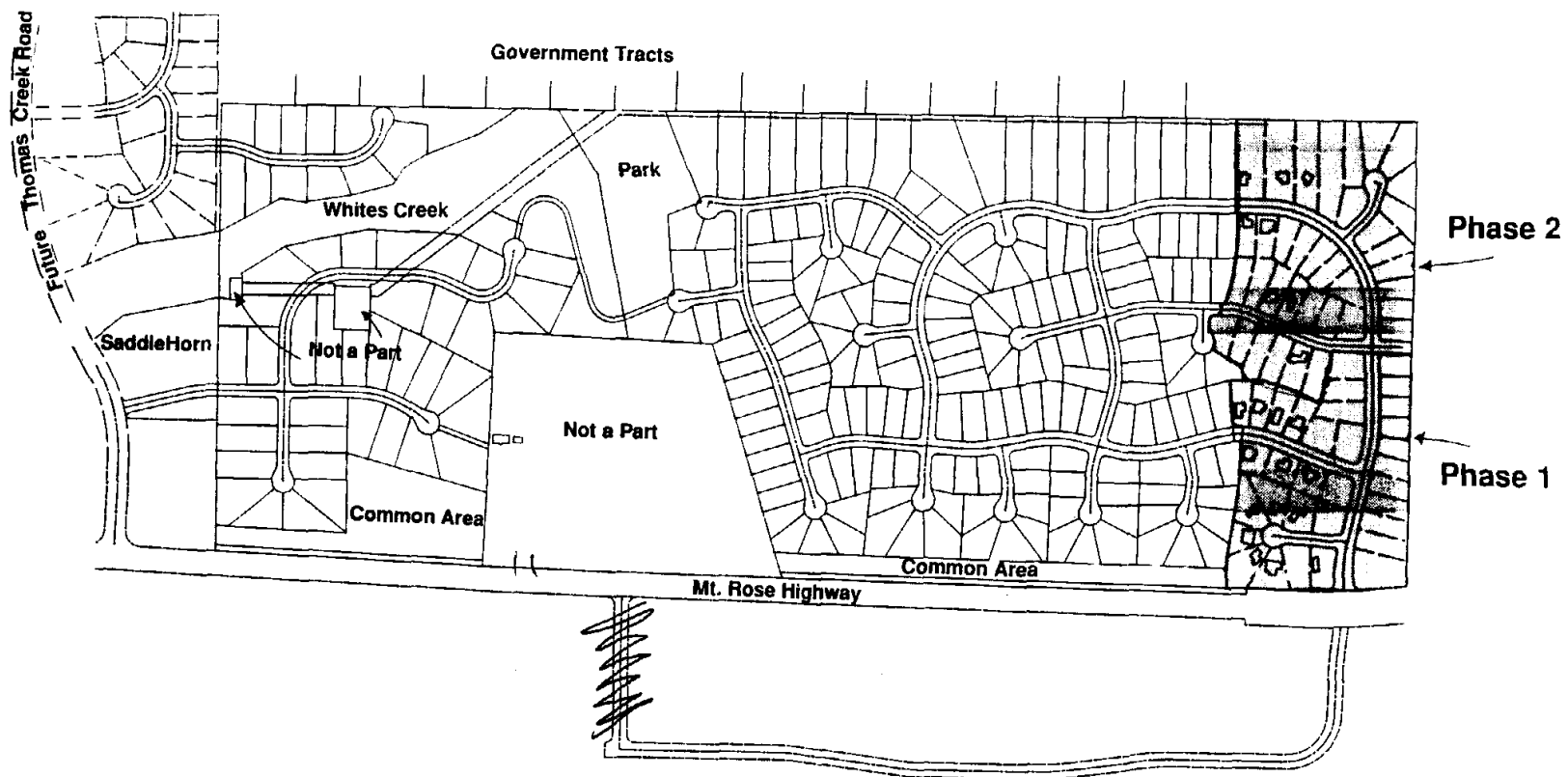
Approval of the tentative map will specify the total number of final maps that will be allowed for recording. Therefore, identify the total number of final maps intended to record the entire project, the number of lots or units in each map and the proposed sequence of recording:

It is anticipated that up to nine (9) final maps may be recorded. Future development will start from the east adjacent to Phases I & II, and work towards the west. The approximate number of lots in each phase is shown below. The phasing commences with Phase III because two phases of the original subdivision have already been recorded.

Phase III	-	25 lots (1991)
Phase IV	-	33 lots
Phase V	-	8 lots
Phase VI	-	36 lots
Phase VII	-	15 lots
Phase VIII	-	26 lots
Phase IX	-	37 lots
Phase X	-	12 lots
Phase XI	-	39 lots
		<u>231 lots</u>

\* The Homeowners Association has agreed to pay for development and maintenance of the park, which will be open to the public.





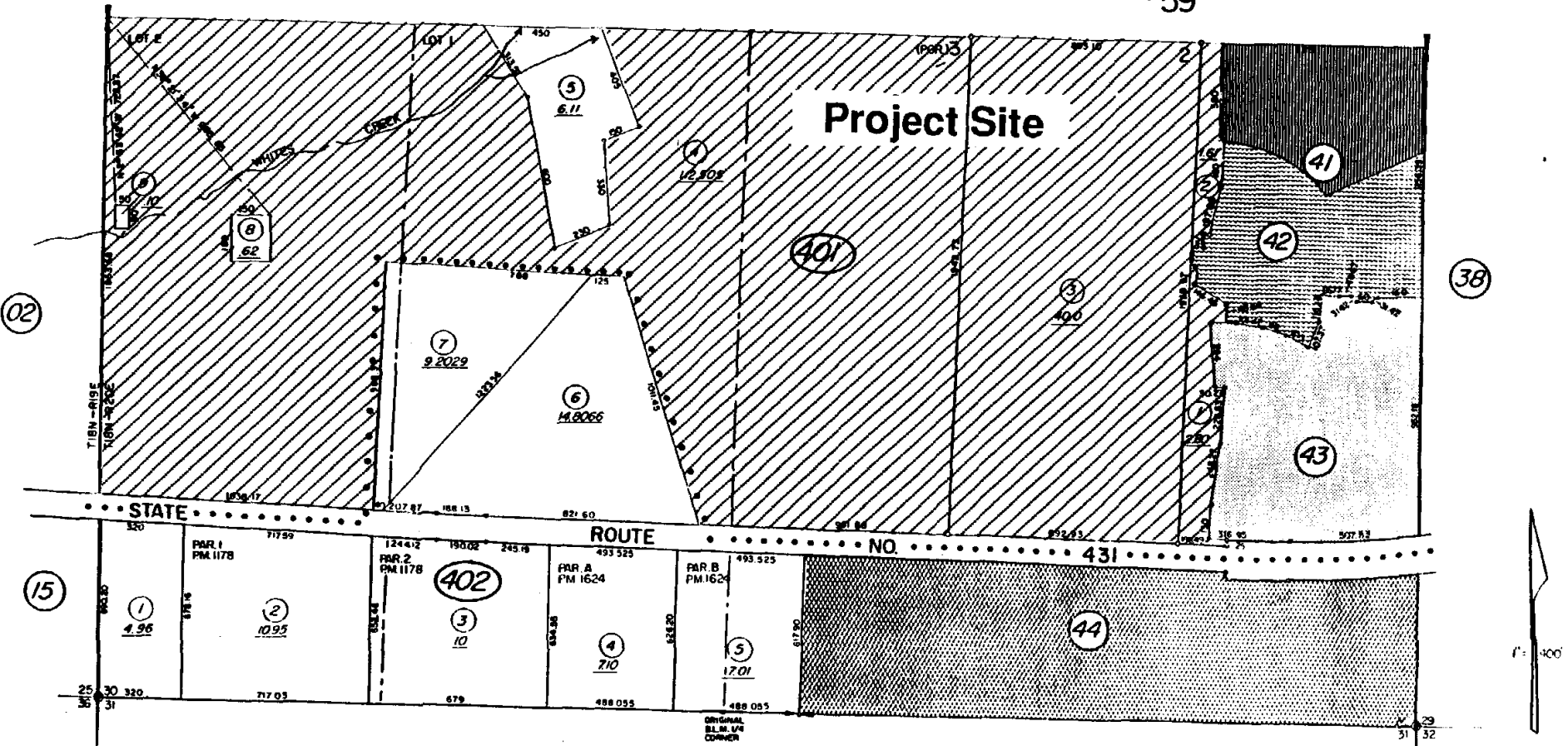
## Lancer Estates Subdivision

Fritz v. Washoe Opp to MSJ 000086



S 1/2 SECTION 30, T18N-R20E.

DIVISION INTO LARGE PARCELS  
#59



NOTE: This Map is prepared for the use of the Washoe County Assessor for Assessment and illustrative purposes only. It does not represent a survey of the premises. No liability is assumed as to the accuracy of the map.

Assessor's Map County of Washoe, Nevada

NOTE - ASSESSOR'S BLOCK NUMBERS SHOWN IN ELLIPSES  
ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES

drawn by: J.C. 6-5  
revised: 7-95, 6/85, 1/86  
amended: 1-81

cfa

# ASSESSOR'S PARCEL MAP

Fritz v. Washoe Opp to Map 000087



## Exhibit 8

## Exhibit 8



# Final Subdivision Map and Construction Plan Review



## Department of Community Development

The Americans with Disabilities Act provides that people with disabilities be afforded equal opportunity to benefit from state and local government programs, services and activities. If you need assistance accessing Washoe County Department of Community Development programs, services or activities, please contact the department at 775-328-3600.



Post Office Box 11130, Reno, NV 89520-0027 – 1001 E. Ninth St., Bldg. A, Reno, NV 89512  
Telephone: 775.328.6100 – Fax: 775.328.6133 – [www.washoecounty.us/comdev/](http://www.washoecounty.us/comdev/)



Staff Assigned Case No.: \_\_\_\_\_

## Washoe County Development Application

Project Information			
Project Name (commercial/industrial projects only): <div style="font-family: cursive; font-size: 1.2em;">The Reserve at Monte Rosa Unit 2</div>			
Project Description: <div style="font-family: cursive; font-size: 1.2em;">32 lot single family subdivision in Washoe County</div>			
Project Address: <div style="font-family: cursive; font-size: 1.2em;">3705 Mt. Rose Highway (SR-431)</div>			
Project Area (acres or square feet): <div style="font-family: cursive; font-size: 1.2em;">38.79 Acres</div>			
Location Information			
Project Location (with point of reference to major cross streets or area locator): <div style="font-family: cursive; font-size: 1.2em;">NE of the intersection of Mt. Rose Highway and Thomas Creek Rd.</div>			
Assessor's Parcel No(s):	Parcel Acreage:	Assessor's Parcel No(s):	Parcel Acreage:
<div style="font-family: cursive; font-size: 1.2em;">049-401-37</div>	<div style="font-family: cursive; font-size: 1.2em;">38.79</div>		
Sections/Township/Range:			
Indicate any previous Washoe County approvals associated with this application: Case Nos.			
Applicant Information			
<b>Property Owner:</b>		<b>Professional Consultant:</b>	
Name: <div style="font-family: cursive; font-size: 1.2em;">Monte Rosa, LLC</div>		Name: <div style="font-family: cursive; font-size: 1.2em;">Wood Rodgers</div>	
Address: <div style="font-family: cursive; font-size: 1.2em;">6121 Lakeside Dr. Suite 236</div>		Address: <div style="font-family: cursive; font-size: 1.2em;">575 Double Eagle Ct</div>	
<div style="font-family: cursive; font-size: 1.2em;">Reno NV</div> Zip: <div style="font-family: cursive; font-size: 1.2em;">89503</div>		<div style="font-family: cursive; font-size: 1.2em;">Reno NV</div> Zip: <div style="font-family: cursive; font-size: 1.2em;">89521</div>	
Phone: <div style="font-family: cursive; font-size: 1.2em;">746-0808</div> Fax:		Phone: <div style="font-family: cursive; font-size: 1.2em;">823-4068</div> Fax: <div style="font-family: cursive; font-size: 1.2em;">823-4066</div>	
Email: Cell:		Email: <div style="font-family: cursive; font-size: 1.2em;">schristy@woodrogers.com</div> Cell:	
Contact Person: <div style="font-family: cursive; font-size: 1.2em;">Alan Means</div>		Contact Person: <div style="font-family: cursive; font-size: 1.2em;">Schott Christy</div>	
<b>Applicant/Developer:</b>		<b>Other Persons to be Contacted:</b>	
Name: <div style="font-family: cursive; font-size: 1.2em;">Same as Owner</div>		Name:	
Address:		Address:	
Zip:		Zip:	
Phone: Fax:		Phone: Fax:	
Email: Cell:		Email: Cell:	
Contact Person:		Contact Person:	
For Office Use Only			
Date Received: Initial:		Planning Area:	
County Commission District:		Land Use Designation(s):	
CAB(s):			



## Owner Affidavit

Project Name: <u>The Reserve at Monte Rosa Unit 2</u>	
<b>Application Type</b>	
<input type="checkbox"/> Abandonment (AB)	<input type="checkbox"/> Final Map Certificate of Amendment (CA)
<input type="checkbox"/> Administrative Permit (AP)	<input type="checkbox"/> Final Map Major/Minor Amendment
<input type="checkbox"/> Amendment of Conditions of Approval	<input checked="" type="checkbox"/> Final Subdivision Map/Const Plan Review
<input type="checkbox"/> Boundary Line Adjustment (BL)	<input type="checkbox"/> Parcel Map Waiver (PM)
<input type="checkbox"/> Comprehensive Plan Amendment (CP)	<input type="checkbox"/> Reversion to Acreage (RA)
<input type="checkbox"/> Cooperative Plan Amendment	<input type="checkbox"/> Special Use Permit (SB/SW)
<input type="checkbox"/> Land Use Designation Change	<input type="checkbox"/> Specific Plan (SP)
<input type="checkbox"/> Text Change	<input type="checkbox"/> Tentative Map of Div into Large Parcels (DL)
<input type="checkbox"/> Design Review Committee Submittal (DRC)	<input type="checkbox"/> Tentative Parcel Map (PM)
<input type="checkbox"/> Development Agreement (DA)	<input type="checkbox"/> Tentative Subdivision Map (TM)
<input type="checkbox"/> Development Code Amendment (DC)	<input type="checkbox"/> Hillside Development
<input type="checkbox"/> Ext of Time Requests (Approved Applications)	<input type="checkbox"/> Common Open Space Development
<input type="checkbox"/> Ext of Time Requests (Tent Subdivision Maps)	<input type="checkbox"/> Variance (VA)

The receipt of an application at the time of submittal does not imply the application complies with all requirements of the Washoe County Development Code, the Washoe County Comprehensive Plan or the applicable area plan, or that it is deemed complete and will be processed.

STATE OF NEVADA )

COUNTY OF WASHOE )

I, \_\_\_\_\_, being duly sworn, depose and say that I am an owner\* of property involved in this petition and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of the Department of Community Development staff.

**(A separate Affidavit must be provided by each property owner named in the title report.)**

\*Owner refers to the following: (Please mark appropriate box.)

- ☐ Owner
- ☐ Corporate Officer/Partner (Provide copy of record document indicating authority to sign.)
- ☐ Power of Attorney (Provide copy of Power of Attorney.)
- ☐ Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- ☐ Property Agent (Provide copy of record document indicating authority to sign.)
- ☐ Letter from Government Agency with Stewardship

Signed \_\_\_\_\_

Address 4790 CAVALIER PKWY #461

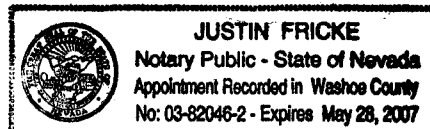
RENO NV 89509

Subscribed and sworn to before me this  
24<sup>th</sup> day of April, 2006.

Justin Fricke  
Notary Public in and for said county and state

My commission expires: May 28, 2007

(Notary stamp)





# Letter of Transmittal



**WOOD RODGERS**  
ENGINEERING • PLANNING • MAPPING • SURVEYING

**Date:** 6-29-05

**Job No.:** 1460.002

**To:** WASHOE COUNTY COMMUNITY DEVELOPMENT DRC

**Attn:** SANDRA DUTTON

**Address:**

**City:**

**State:**

**ZIP:**

**Phone:**

**From:** JON BAILEY

**Re:** The Reserve at Monte Rosa DRC Review

**These are transmitted as checked below:**

☐ For Approval ☒ For your use ☐ As requested ☐ For review/comment

**We are sending you:**

Aerospeed/Hand Delivery

**We are sending you:**

☐ Exhibits ☒ Plans

☐ Prints ☐ Maps

☐ Copies

☐ Specifications

☐ Contract/Change Order

☐ Other: \_\_\_\_\_

Copies	Description
15	DRC APPLICATION PACKETS

**Comments:**

Susan,

I've included the DRC packages as you discussed with Scott Christy. Please let me know if you need any additional information.

Best Regards,

JON BAILEY

6774 South McCarran Blvd. • Reno, Nevada 89509 • Tel: 775.823.4068 • Fax: 775.823.4066

[www.woodrogers.com](http://www.woodrogers.com)



Design Review Application  
for  
**The Reserve at Monte Rosa  
Unit 1**

Prepared For:

Monte Rosa, LLC.  
6121 Lakeside Drive Suite #230  
Reno, Nevada 89511

Prepared By:



**WOOD RODGERS**  
ENGINEERING • PLANNING • MAPPING • SURVEYING  
6774 South McCarran Blvd Tel: 775.823.4068  
Reno, NV 89509 Fax: 775.823.4066

June 2005



June 29, 2005

Sandra Dutton  
Washoe County  
Community Development Department  
1001 E. Ninth Street  
Reno, NV 89520-0027

RE: The Reserve at Monte Rosa Unit 1

Dear Ms. Dutton:

On behalf of Monte Rosa, LLC., Wood Rodgers, Inc. is pleased to submit a Design Review Application for The Reserve at Monte Rosa Unit 1 project. We are submitting the civil plans, landscaping plans, and architectural plans for a 32 single family residential lot subdivision for your review. This is a condition of our Special Use Permit and Tentative Map applications.

We would appreciate if you would submit our application for staff review and schedule us for the next available Design Review Committee meeting. Please call if you have any questions.

Sincerely,

Scott A. Christy, P.E.  
Project Manager



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- ❖ Proof of Property Tax Payment
- ❖ Vicinity Map

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  - Utility Plan (U1 – U4)
  - Grading Plan (G1 – G4)
  - Street Section and Signage and Striping Details (D1,D2,D4)
  - Signage and Striping Plan (S1)
  - Erosion Control Plan (E1)
  - Hydrological Basins Map (H1)

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- ❖ Landscape Area Delineations
  - Planting Plan (L1 – L4)
  - Irrigation Plan (L5 – L9)

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  - The Sanctuary at Monte Rosa Conceptual Building Elevations
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- ❖ Reports and Supplemental Information
  - Site Photos
  - Tentative Subdivision Case No. TM04-11 Action Order (January 5, 2005)



*Section 1*

Washoe County Design Review Application  
Proof of Property Tax Payment  
Vicinity Map



# Washoe County Development Application

## Project Information

Project Name (commercial/industrial projects only):

The Reserve at Monte Rosa - Unit 1

Project Description: Civil plans, landscaping plans, and fencing plans for a 32 single family residential lot subdivision.

Project Address: Mt. Rose Highway, Washoe County, Nevada

Project Area (acres or square feet): 28.37 Acres

Application Type (check box on next page and indicate type here): Design Review

## Location Information

Project Location (with point of reference to major cross streets or area locator):

North of the Mt. Rose Highway (SR 431). Major cross street west of project is Thomas Creek Road, east of project is Wedge Parkway.

Assessor's Parcel Number(s):	Parcel Acreage:	Land Use Designation:
049-401-30	48.590	018
049-401-34	11.780	014
049-401-35	11.520	014
Sections: 30	Township: 18N	Range: 20E

Indicate any previous Washoe County approvals associated with this application:

Case Nos. TM 04-11

## Applicant Information

Property Owner:		Professional Consultant:	
Name: Monte Rosa, LLC		Name: Wood Rodgers, Inc.	
Address: 6121 Lakeside Drive, Ste. 230		Address: 6774 S. McCarran Blvd.	
Reno, NV	Zip: 89511	Reno, NV	Zip: 89509
Phone: (775) 746-1026	Fax: 746-1099	Phone: (775) 823-4068	Fax: 823-4066
Contact Person: Alan Means		Contact Person: Scott A. Christy	
Applicant/Developer:		Other Persons to be Contacted:	
Name: Monte Rosa, LLC		Name:	
Address: 6121 Lakeside Drive, Ste. 230		Address:	
Reno, NV	Zip: 89511		Zip:
Phone: (775) 746-1026	Fax: 746-1099	Phone:	Fax:
Contact Person: Alan Means		Contact Person:	

## For Office Use Only

Date Received:	Initial:	Case Numbers:
Deemed Complete:	Initial:	
County Commission District:		
CAB(s):		Planning Area:



# OWNER AFFIDAVIT

Project Name:	
Application Type	
<input type="checkbox"/> Abandonment (AB)	<input type="checkbox"/> Final Map Certificate of Amendment (CA)
<input type="checkbox"/> Administrative Permit (AP)	<input type="checkbox"/> Final Map Major/Minor Amendment
<input type="checkbox"/> Amendment of Conditions of Approval	<input type="checkbox"/> Final Subdivision Map/Const Plan Review
<input type="checkbox"/> Boundary Line Adjustment (BL)	<input type="checkbox"/> Parcel Map Waiver (PM)
<input type="checkbox"/> Comprehensive Plan Amendment (CP)	<input type="checkbox"/> Reversion to Acreage (RA)
<input type="checkbox"/> Cooperative Plan Amendment	<input type="checkbox"/> Special Use Permit (SB/SW)
<input type="checkbox"/> Land Use Designation Change	<input type="checkbox"/> Specific Plan (SP)
<input type="checkbox"/> Text Change	<input type="checkbox"/> Tentative Map of Div into Large Parcels (DL)
<input checked="" type="checkbox"/> Design Review Committee Submittal (DRC)	<input type="checkbox"/> Tentative Parcel Map (PM)
<input type="checkbox"/> Development Agreement (DA)	<input type="checkbox"/> Tentative Subdivision Map (TM)
<input type="checkbox"/> Development Code Amendment (DC)	<input type="checkbox"/> Hillside Development
<input type="checkbox"/> Ext of Time Requests (Approved Applications)	<input type="checkbox"/> Common Open Space Development
<input type="checkbox"/> Ext of Time Requests (Tent Subdivision Maps)	<input type="checkbox"/> Variance (VA)

The receipt of an application at the time of submittal does not imply the application complies with all requirements of the Washoe County Development Code, the Washoe County Comprehensive Plan or the applicable area plan, or that it is deemed complete and will be processed.

STATE OF NEVADA )

COUNTY OF WASHOE )

I, Alan Means

being duly sworn, depose and say that I am an owner\* of property involved in this petition and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects complete, true and correct to the best of my knowledge and belief. I understand that no assurance or guarantee can be given by members of the Department of Community Development staff.

(A separate Affidavit must be provided by each property owner named in the title report.)

\*Owner refers to the following: (Please mark appropriate box.)

- ☐ Owner
- ☐ Corporate Officer/Partner (Provide copy of record document indicating authority to sign.)
- ☐ Power of Attorney (Provide copy of Power of Attorney.)
- ☐ Owner Agent (Provide notarized letter from property owner giving legal authority to agent.)
- ☐ Property Agent (Provide copy of record document indicating authority to sign.)
- ☐ Letter from Government Agency with Stewardship

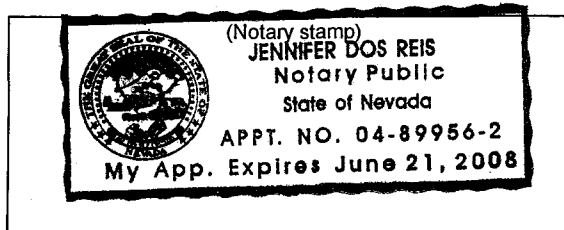
Signed

Address

6121 Lakeside Drive Ste 230  
Reno NV 89511

Subscribed and sworn to before me this  
29 day of June, 2007.

Jennifer D. Reis  
Notary Public in and for said county and state  
My commission expires: 6/21/08



Effective Date 7-1-04

Fritz v. Washoe Opp to MSJ 000098

Fritz v. Washoe County - Case No. 67660 - Bates No. 000220



[.: Close This Window .:](#)

This search will display current year property tax information only. If you need information for prior year tax or delinquency amounts, please contact us at (775) 328-2510 or [treasb2@mail.co.washoe.nv.us](mailto:treasb2@mail.co.washoe.nv.us).

Please make checks payable to:

**WASHOE COUNTY TREASURER**  
**P.O. Box 30039**  
**Reno, NV 89520**

[.: Print This Page .:](#)**REAL PROPERTY RESULTS FOR ID#04940130****MONTE ROSA LLC,****TAX YEAR:**  
2004**TAX RATE:** 3.1207%**TOTAL TAX:** \$4,183.71

<b>PARCEL ID</b>	<b>AREA</b>	<b>LAND</b>	<b>IMPROVED</b>	<b>DECLARED</b>	<b>EXEMPTIONS</b>	<b>ASSESSED</b>
04940130	3705	130,935	3,128	\$0.00	0	134,063
<b>INSTALL</b>	<b>DUE DATE</b>	<b>AMOUNT</b>		<b>DATE PAID</b>		
	08/16/2004	\$1,048.71		08/11/2004		
2	10/04/2004	\$1,045.00		08/11/2004		
3	01/03/2005	\$1,045.00		11/19/2004		
	03/07/2005	\$1,045.00		04/12/2005		



Judy Rowley

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**From:** Treasb2 [Treasb2@MAIL.co.washoe.nv.us]  
**Sent:** Tuesday, June 28, 2005 4:08 PM  
**To:** Judy Rowley  
**Subject:** RE:

Attached is the tax information you requested. Please let me know if you have difficulty retrieving the attachment, require additional information, or have any questions.

APN: 049-401-34 (billed in 2004/2005 fiscal year under 049-401-15 & 049-401-16)

APN: 049-401-35 (billed in 2004/2005 fiscal year under 049-401-15 & 049-401-16)

Thank you,

Julie D. Munoz  
Washoe County Treasurer's Office  
1001 E. Ninth St  
PO Box 30039  
Reno, NV 89520  
75-328-2510 between 8 am and 5 pm  
Treasb2@mail.co.washoe.nv.us  
www.washoecounty.us/treas

The Washoe County Treasurer's Office will retain e-mail correspondence for 30 days. It is your responsibility to retain copies for future reference.



BILL BERRUM  
WASHOE COUNTY TREASURER  
1001 E 9<sup>TH</sup> ST - P O BOX 30039  
RENO NV 89520  
March 22, 2005

WEB ADDRESS: WWW.WASHOECOUNTY.US/TREAS

TREASB2

File Edit Options Send Receive Window Help

PARCEL ID	AREA MC	DEL	LAND	IMPROVED	DECLARED	EXEMPTIONS	ASSESSED
049-401-16	3705		489,685	0	0	0	489,685

TAX

LANCER HILL DEVELOPMENT LLC	YEAR	TAXING AGENCY.....	RATE...	TAX AMOUNT
P O BOX 7400	2004	COUNTY GENERAL	1.2902	6,317.91
INCLINE VILLAGE NV 89452-7400		ANIMAL SHELTER OP	.0300	146.91
		COUNTY DEBT	.0715	350.12
		SCHOOL DEBT	.3885	1,902.43
		SCHOOL GENERAL	.7500	3,672.64
		SIERRA FOREST FPD	.4200	2,056.68
		STATE OF NEVADA	.1700	832.46
		TRUCK MDW UNGR WT	.0005	2.45

INS DATE DUE	AMOUNT DUE	DATE PAID
1 08/16/2004	3,821.60	07/22/2004
2 10/04/2004	3,820.00	07/22/2004
3 01/03/2005	3,820.00	07/22/2004
4 03/07/2005	3,820.00	07/22/2004

PENALTY. .00 INTEREST... .00  
ADV.COST.... .00 MAIL COST..... .00  
SUPP. AG/DEF. ADJUST.DATE.  
SITUS. 03705 MT ROSE HWY  
COMMENTS(1).  
(2). 02/09/2004

TOTAL.. 3.1207 15,281.60

PRINT SCREEN THEN PRESS ENTER TO CONTINUE OR E TO EXIT

ANSI TCF/15883 0/0000

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**BILL BERRUM**  
**WASHOE COUNTY TREASURER**  
**1001 E 9<sup>TH</sup> ST - P O BOX 30039**  
**RENO NV 89520**  
**March 22, 2005**

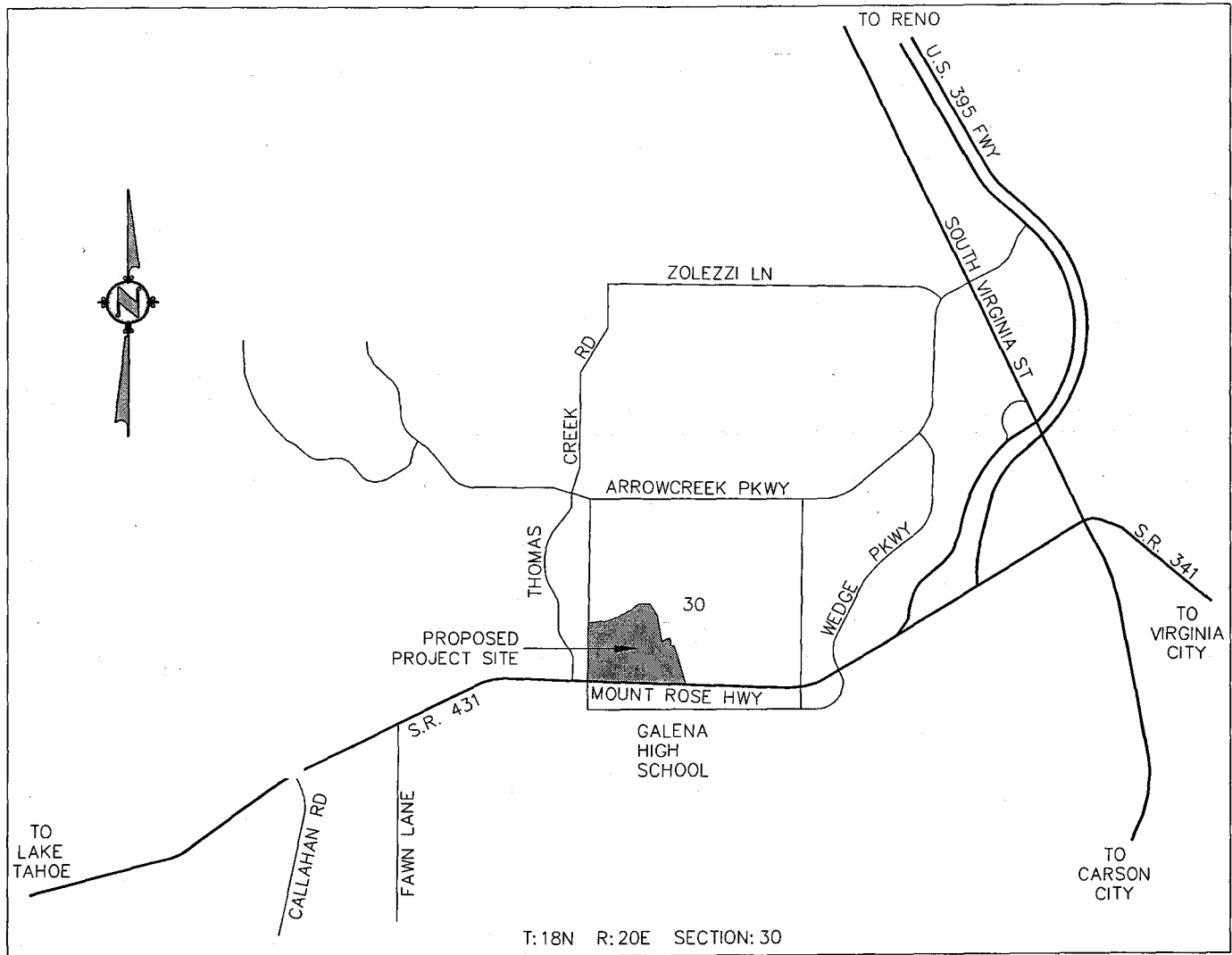
**WEB ADDRESS: WWW.WASHOECOUNTY.US/TREAS**

PARCEL ID	AREA MC	DEL	LAND	IMPROVED	DECLARED	EXEMPTIONS	ASSESSED
049-401-15	3705		753,060	0	0	0	753,060
<b>TAX</b>							
LANCER HILL DEVELOPMENT LLC				YEAR	TAXING AGENCY.....	RATE...	TAX AMOUNT
P O BOX 7400				2004	COUNTY GENERAL	1.2902	9,715.98
INCLINE VILLAGE NV 89452-7400					ANIMAL SHELTER OP	.0300	225.92
					COUNTY DEBT	.0715	538.44
					SCHOOL DEBT	.3885	2,925.64
					SCHOOL GENERAL	.7500	5,647.95
					SIERRA FOREST FPD	.4200	3,162.85
					STATE OF NEVADA	.1700	1,280.20
					TRUCK MDW UNGR WT	.0005	3.77
INS DATE DUE	AMOUNT DUE	DATE PAID					
1 08/16/2004	5,875.75	07/22/2004					
2 10/04/2004	5,875.00	07/22/2004					
3 01/03/2005	5,875.00	07/22/2004					
4 03/07/2005	5,875.00	07/22/2004					
PENALTY.	.00	INTEREST...	.00				
ADV.COST....	.00	MAIL COST.....	.00				
SUPP.	AG/DEF.	ADJUST.DATE.					
SITUS.	MT ROSE HWY						
COMMENTS(1).							
(2).	02/09/2004						
<b>TOTAL..</b>						<b>3.1207</b>	<b>23,500.75</b>

PRINT SCREEN THEN PRESS ENTER TO CONTINUE OR E TO EXIT



# THE RESERVE AT MONTE ROSA UNIT 1



VICINITY MAP  
NOT TO SCALE



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

6774 South McCarran Blvd Tel 775.823.4068  
Reno, NV. 89509 Fax 775.823.4066

**PROJECT #1460.002**

Fritz v. Washoe Opp to MSJ 000103



**RELEVANT SOUTHWEST TRUCKEE MEADOWS AREA PLAN POLICIES  
AND ACTION PROGRAMS**

In addition to the Washoe County Development Code Article 214, Southwest Truckee Meadows Area Modifiers, the following excerpts of policies and action programs contained in the Southwest Truckee Meadows Area Plan are relevant to the proposed subdivision:

**Cultural and Scenic Resources**

**SWTM.1.1 Preserve the Mt. Rose Highway that offers an important scenic resource in the Forest Planning Area.**

- SWTM.1.1.1 Washoe County shall continue to enforce the Mt. Rose Highway Scenic Roadway Corridor Standards contained in the Washoe County Development Code.
- SWTM.1.1.2 The Washoe County Department of Community Development will work with other agencies to investigate including landscaping and other components into the design of the Mt. Rose Highway.
- SWTM.1.1.3 Any development along the Mt. Rose Highway should retain the visual quality of the highway. Structure heights and setbacks should not block scenic vistas as seen from the highway.
- SWTM.1.1.4 During any development activity, the turnouts along the Mt. Rose Highway should be retained and improved, and additional turnouts provided at points offering scenic views.

**Water Resources**

- SWTM.2.1 Develop a comprehensive storm drainage system with the City and County Public Works Departments. It should be adequately sized and designed to accommodate storm drain flows from all present and future development within and downstream from the plan area. Additionally, peak runoff rates will be controlled to pre-development conditions.**

**Land Use**

- SWTM.3.4 Direct future residential development toward the planned residential areas as described in the Southwest Truckee Meadows Area Plan.**



To: Washoe County Planning Commission  
Re: TM04-011 (The Reserve at Monte Rosa, LLC)  
Date: December 23, 2005  
Page: 18

### **Transportation**

**SWTM.4.5 Prohibit new street (public or private) egress or ingress on the Mt. Rose highway not shown on the Transportation Plan map.**

**SWTM.4.6 Encourage appropriate low water usage landscaping within the right-of-way and along the Mt. Rose Highway where possible.**

### **Parks and Recreation Facilities**

**SWTM.5.4 Require all new projects, when appropriate, to annex to the South Truckee Meadows General Improvement District.**

**SWTM.5.6 Encourage the development of additional schools within the Southwest Truckee Meadows planning area.**

SWTM.5.6.1 Developers shall work with the Washoe County Department of Community Development and the Washoe County School District to integrate new school facilities with future residential development.

**SWTM.5.7 Encourage the location of community and neighborhood parks and trails in the Southwest Truckee Meadows planning area.**

SWTM.5.7.2 The Regional Trail System and the trails depicted in the Park Master Plan should be used as a guide for the acquisition and location of recreational trail facilities within the planning area.

## **CITIZEN ADVISORY BOARD COMMENTS**

The proposed plans were submitted to the Southwest Truckee Meadows Citizen Advisory Board and were discussed during the November 18, 2004, meeting. A motion was made to recommend approval as long as all concerns presented were addressed by the Planning Commission. Minutes from the Southwest Truckee Meadows CAB are attached. Staff has not addressed all concerns in those minutes, however, has included conditions, where appropriate, legal and reasonable. Others would embroil the county in "takings" lawsuits and finally, the standards required by the Architectural Review Committee of the Homeowner's Association are not within the purview of county staff or the Planning Commission unless the standards are in contravention to county, state or federal laws or codes as the county does not enforce private CC&Rs and subsequent Architectural Review Standards under the county mandates by condition and is party to specific CC&R provisions. The following comments/concerns were raised by the Board and public that were addressed in this staff report:

- Whistler Ridge cul-de-sac and emergency gate. (See Condition 14d)
- Maintenance of the Galena Country Estates (Lancer Estates) park. See Condition 15f