

Control Number: 44267



Item Number: 16

Addendum StartPage: 0

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FILING CLERK

APPLICATION OF DOUBLE §
DIAMOND DBA THE CLIFFS §
RESORT TO OBTAIN OR AMEND A §
WATER/SEWER CERTIFICATE OF §
CONVENIENCE AND NECESSITY §
IN PALO PINTO COUNTY §

PUBLIC UTILITY COMMISSION
OF TEXAS

DOUBLE DIAMOND DBA THE CLIFFS RESORT
SUPPLEMENT TO APPLICATION

COMES NOW, Double Diamond Properties Construction Co. dba The Cliffs Resort (“Double Diamond”) and files this Supplement to its Application and would respectfully show the following:

On January 13, 2015, Double Diamond filed an application to amend its water Certificate of Convenience and Necessity (“CCN”) No. 12087 and sewer CCN No. 20705 in Palo Pinto County, Texas. The amendment is sought to include areas developed subsequent to the original development and where services are already provided. PUC Staff noted several deficiencies in the application and, on April 10, 2015, Double Diamond submitted its response to those deficiencies. On May 4, 2015, PUC Staff identified additional deficiencies to be cured. Double Diamond requested an extension of time to respond to the deficiencies. Order No. 5 was issued on May 29, 2015, requiring Double Diamond to cure the deficiencies in the application by September 28, 2015, and the PUC to file a supplemental recommendation regarding administrative completeness and a proposed procedural schedule by October 28, 2015. This response filed by Double Diamond is timely.

Below each of PUC Staff’s deficiencies are noted and Double Diamond’s response is provided.

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①

A general location (small scale) map only showing the proposed water and sewer service areas with enough detail to accurately locate the service areas in a portion of Palo Pinto County.

Attached as Exhibit 1 are two general location (small scale) maps provided on letter-sized paper which show only the proposed service areas and provides sufficient detail to locate those areas within Palo Pinto County.

A large scale map only delineating the proposed water and sewer service areas with enough detail to accurately locate the service areas in the vicinity of surrounding roads, streets, and highways. Staff recommends Applicant submit a map in letter or tabloid size, since this map should be used for notice purposes.

Attached as Exhibit 2 are one legal-sized map and four over-sized maps. All of the maps included in Exhibit 2 are large scale maps delineating the proposed water and sewer areas being requested in this application. The oversized maps include:

- Sheet 1, which shows the proposed water and sewer service areas being requested;
- Sheet 2, which shows the proposed water and sewer service areas being requested and identifies the current customers within the proposed areas;
- Sheet 3, which shows the portion of the proposed service area associated with the overlap with Possum Kingdom WSC; and
- Sheet 4, which shows an outline of the overlap area within the proposed service area.

The legal-sized map is similar to Sheet 1 except that it shows part of the proposed area in an inset to allow the detail to be legible on legal-sized paper. Double Diamond anticipates using this map, along with the small scale maps included in Exhibit 1, for notice purposes.

Submit a written agreement between the Applicant and with Possum Kingdom WSC stating they approve the decertification of water CCN No. 12890 for the portion specified on Applicant's CCN Overlap Map (Sheet 3).

Attached as Exhibit 3 is a letter including a map that Double Diamond and Possum Kingdom WSC agree accurately depicts the area which Possum Kingdom WSC approved for decertification. Double Diamond previously submitted a letter agreement between Double Diamond Utilities Co. and Possum Kingdom WSC dated April 1, 2015. This agreement was included as Attachment D to Double Diamond's April 10, 2015, response to PUC Staff's earlier notice of deficiency. Attachment D demonstrated that Possum Kingdom WSC approves the decertification of its CCN in the overlap area. Attached to this agreement (and included in Attachment D), was a color, letter-sized copy of the CCN Overlap Map (Sheet 3). The letter included here as Exhibit 3 simply confirms that the map included in Attachment D accurately depicts the area the parties agreed to decertify.

In addition, Staff recommends the Applicant submit a letter or documentation from the USDA Rural Development releasing its lien on the portion of land the Applicant is requesting to be decertified from Possum Kingdom WSC's CCN No. 12890.

Attached as Exhibit 4 is a signed letter and USDA Form RD465-1, Application for Partial Release, Subordination, or Consent indicating USDA's release of its lien on the portion of the land Double Diamond is requesting be decertified from Possum Kingdom WSC's CCN and includes a letter-sized copy of the CCN Overlap Map (Sheet 3).

Submit revised digital data only including the proposed water and sewer service areas in either an AutoCAD drawing (DWG) or shapefile (SHP) format on a data disk (CD):

- a) The proposed digital data must be a single, continuous polyline or polygon record, which is clearly labeled as the proposed service area.*
- b) The proposed digital data must include the projection or coordinate system used to create the digital data.*
 - i. If submitting a DWG formatted file, please include the world (WLD) or text file.*
 - ii. If submitting a SHP formatted file, please include the projection (PRJ) file.*
 - iii. Submit digital data on a CD labeled with the utility name and docket number assigned to this case.*

Attached as Exhibit 5 are two copies of the CDs with the digital data in the proper format and showing the location of the proposed water and sewer areas.

Respectfully submitted,

JACKSON WALKER L.L.P.

Mallory Beck

ALI ABAZARI

State Bar No. 00796094

MALLORY BECK

State Bar No. 24073899

100 Congress Avenue, Suite 1100

Austin, Texas 78701

512-236-2000

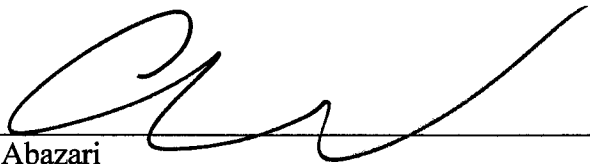
512-236-2002 (Fax)

ATTORNEYS FOR DOUBLE DIAMOND
PROPERTIES CONSTRUCTION CO. D/B/A
ROCK CREEK RESORT

CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record on September 22 2015, in accordance with P.U.C. Procedural Rule 22.74.

Mandeep Chatha
Attorney-Legal Division
Public Utility Commission of Texas
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326



Ali Abazari

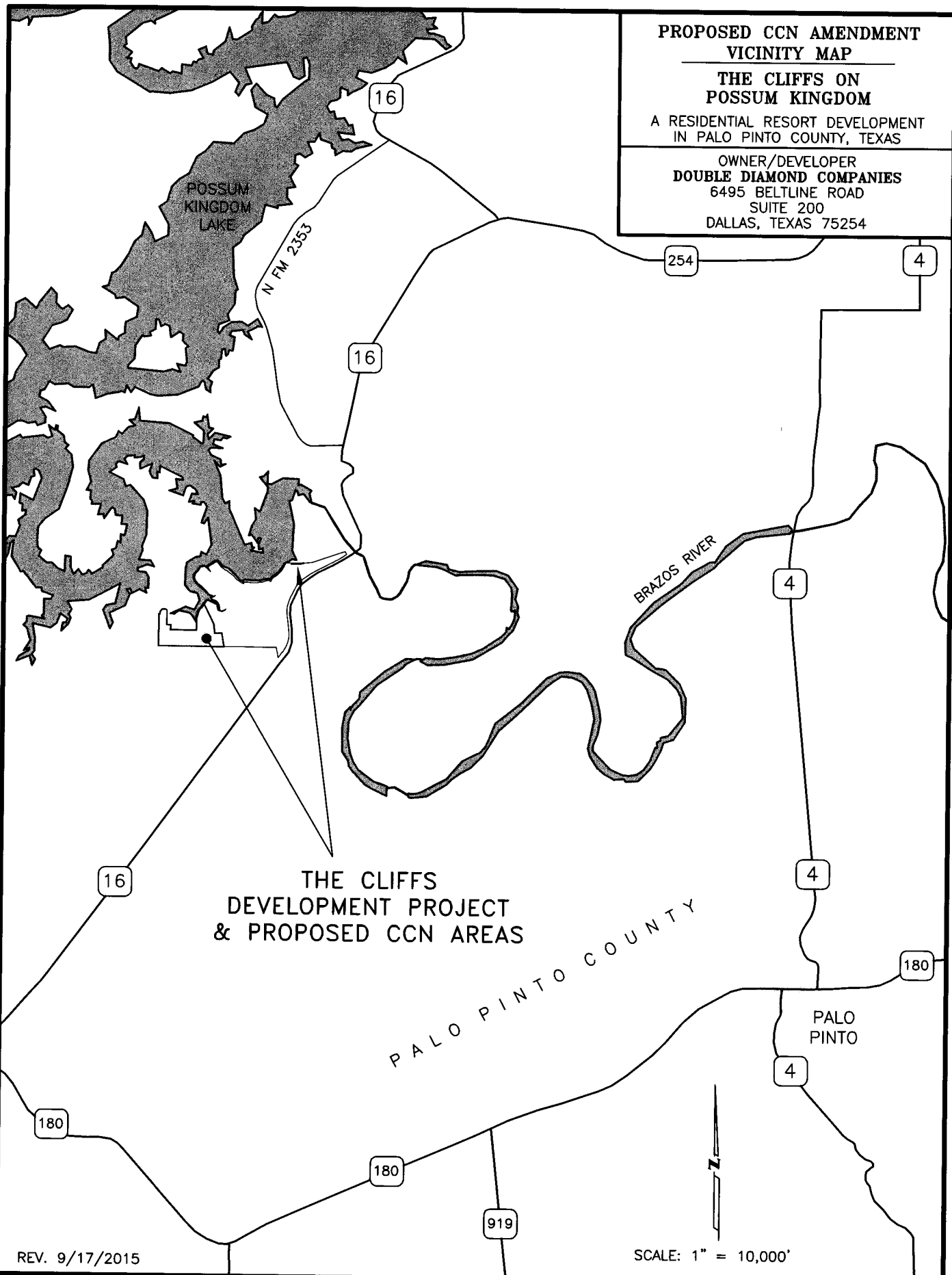
EXHIBIT 1

**PROPOSED CCN AMENDMENT
VICINITY MAP**

**THE CLIFFS ON
POSSUM KINGDOM**

A RESIDENTIAL RESORT DEVELOPMENT
IN PALO PINTO COUNTY, TEXAS

OWNER/DEVELOPER
DOUBLE DIAMOND COMPANIES
6495 BELTLINE ROAD
SUITE 200
DALLAS, TEXAS 75254



**THE CLIFFS
DEVELOPMENT PROJECT
& PROPOSED CCN AREAS**

PALO PINTO COUNTY

PALO PINTO

REV. 9/17/2015

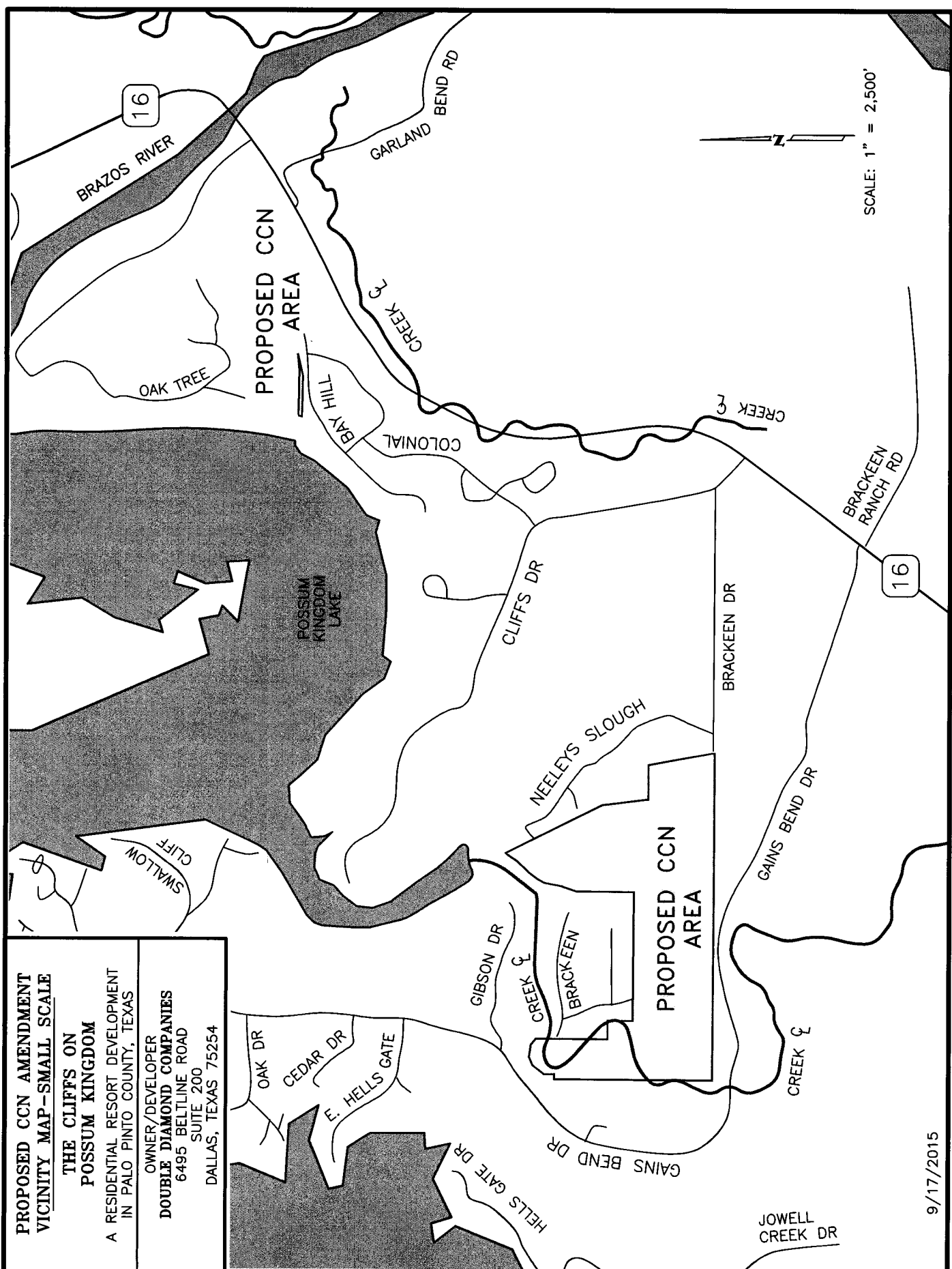
SCALE: 1" = 10,000'

**PROPOSED CCN AMENDMENT
VICINITY MAP—SMALL SCALE**

**THE CLIFFS ON
POSSUM KINGDOM**

A RESIDENTIAL RESORT DEVELOPMENT
IN PALO PINTO COUNTY, TEXAS

OWNER/DEVELOPER
DOUBLE DIAMOND COMPANIES
6495 BELTLINE ROAD
SUITE 200
DALLAS, TEXAS 75254



9/17/2015

EXHIBIT 2

OVERSIZED DOCUMENTS

MAPS

TO VIEW OVERSIZED DOCUMENTS PLEASE GO TO CENTRAL RECORDS

512-936-7180

EXHIBIT 3



JACKSON WALKER L.L.P.



ATTORNEYS & COUNSELORS

Ali Abazari
(512) 236-2239 (Direct Dial)
(512) 391-2197 (Direct Fax)
aabazari@jw.com

September 14, 2015

Mr. Mark Zeppa
Law Office of Mark Zeppa
4833 Spicewood Springs Rd, Suite 202
Austin, TX 78759

RE: Possum Kingdom Water Supply Corporation

Dear Mark:

The Public Utility Commission of Texas has requested clarification of the area which Possum Kingdom Water Supply Corporation agreed to release from its certificated service area to Double Diamond Utilities Company, Inc. in the letter agreement executed between the parties dated April 1, 2015.

Attached and labeled as "Exhibit 1" is a map which depicts the area which is subject to the April 1, 2015, letter agreement. Please execute below to indicate your agreement that Exhibit 1 accurately depicts the area Possum Kingdom Water Supply Corporation agreed to release to Double Diamond Utilities Company, Inc. in the April 1, 2015, letter agreement.

Please call me should you want to discuss this matter further.

Sincerely,

Ali Abazari

AGREED:

Mark Zeppa
General Counsel for Possum Kingdom Water Supply Corporation

Enclosure

cc: Jeff Schmidt, Double Diamond Utilities, Inc.

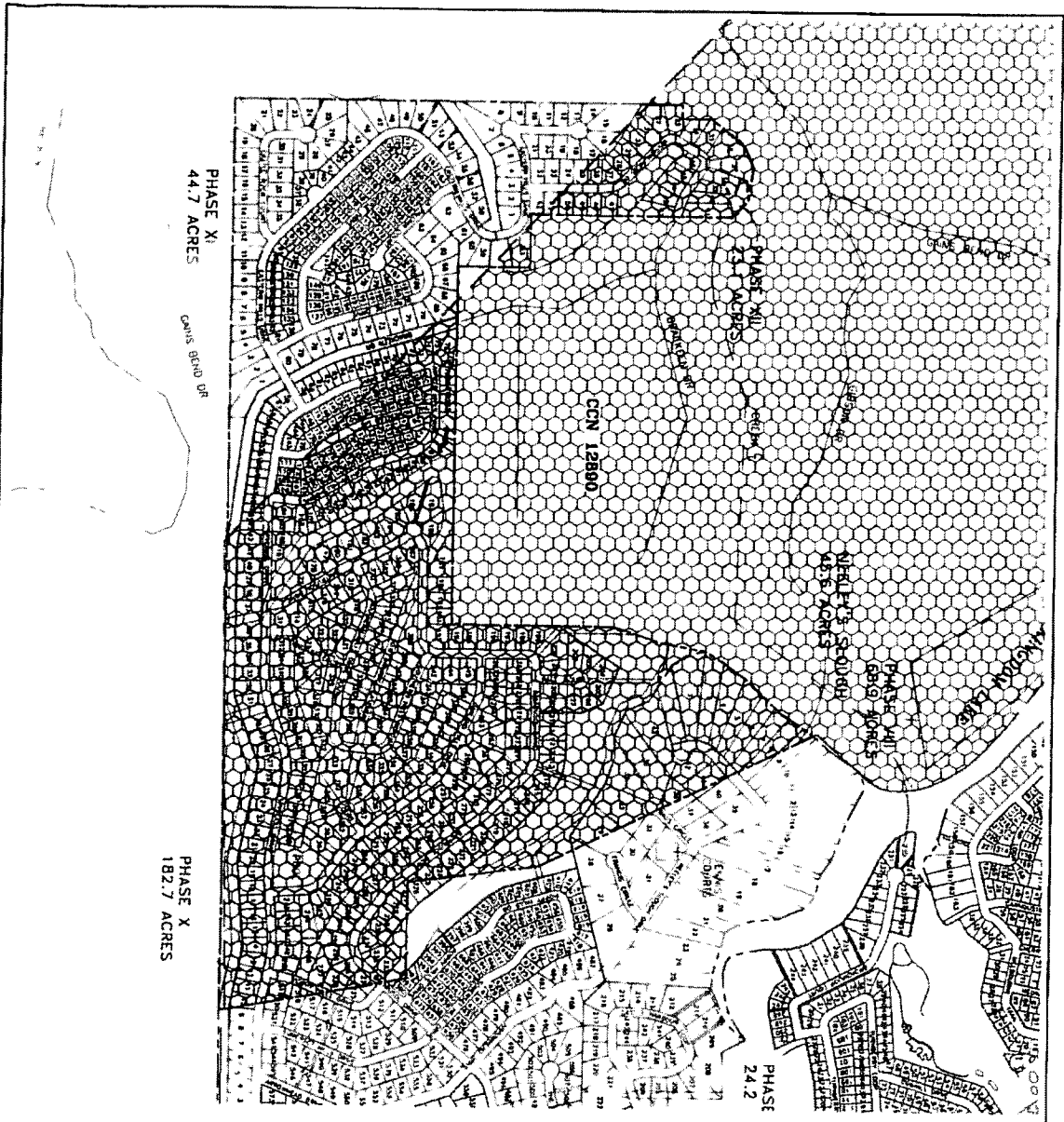
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(15)

EXHIBIT 1



PHASE X
44.7 ACRES







CONUS BEYOND OF

PHASE X
182.7 ACRES

PHASE
24.2

CCN 12890

LEGEND

-  PROJECT PROPERTY LINE
-  PROPOSED CCN BOUNDARY
-  EXISTING CCN BOUNDARY
-  PROPOSED CCN SERVICE AREA
-  EXISTING CCN 12890 POSSIBLE KINGDOM WS. OVERLAP OF PROPOSED CCN
-  EXISTING CCN 12890 (REFER TO SHEET 4 FOR OVERLAP DETERMINATION MAP)

SCALE 1" = 200'

300 0 300 600 900 Feet

GRAPHIC SCALE

CCN OVERLAP MAP
THE CLIFFS ON POSSUM KINGDOM
 A RESIDENTIAL RESORT DEVELOPMENT IN PAUL FINN COUNTY TEXAS

OWNER/DEVELOPER:
DOUBLE DRAGON CAPITALS
 5495 BELLEVUE ROAD
 DALLAS, TEXAS 75234

PREPARED BY:
OLSON ENGINEERS & SURVEYORS, INC.
 7001 MORRIS, TEXAS 76102
 PH (840) 555-0528

SHEET 3

EXHIBIT 4



United States Department of Agriculture

July 30, 2015

~~Mr. Ted Lewellen, President
Possum Kingdom Water Supply Corporation
1170 Willow Road
Graford, Texas 76449~~

RE: Possum Kingdom Water Supply Corporation (WSC)
Partial Release of CCN Area

Dear Mr. Lewellen:

The request from Mr. Mark Zeppa, on behalf Possum Kingdom Water Supply Corporation, for authorization to partial release of CCN #12890, has been reviewed. The release applies to the area identified in Attachment 1, of Mr. Zeppa's June 29, 2015, letter to USDA Rural Development.

Consent is given with the understanding that the transaction will not jeopardize operations of the WSC. In accordance with 7 C.F.R. 1782, §1782.12, the WSC will account for disposition of all proceeds for legal and other expenses, as noted in the request.

An executed copy of Form RD 465-1, "Application for Partial Release, Subordination, or Consent," is enclosed for your records.

Please contact Susan Stoneham, Assistant Area Director, at (972) 542-0081, Extension 113, or by e-mail at sue.stoneham@tx.usda.gov, if additional information is needed.

Sincerely,

(for) ALLEN M. LAMBRIGHT
Area Director

cc: ✓ Mr. Mark H. Zeppa, P.C.
Mr. Jeremiah Gore, Possum Kingdom WSC

Rural Development • McKinney Area Office
1404 North McDonald, Suite 300, McKinney, TX 75071
Voice (972) 542-0081 Ext 4 • Fax (844) 496-8032

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UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

STATE Texas
COUNTY Palo Pinto
CASE NO. 50-082-752429778

APPLICATION FOR PARTIAL RELEASE,
SUBORDINATION, OR CONSENT

TYPE OF LOAN WWD
(SPECIFY)

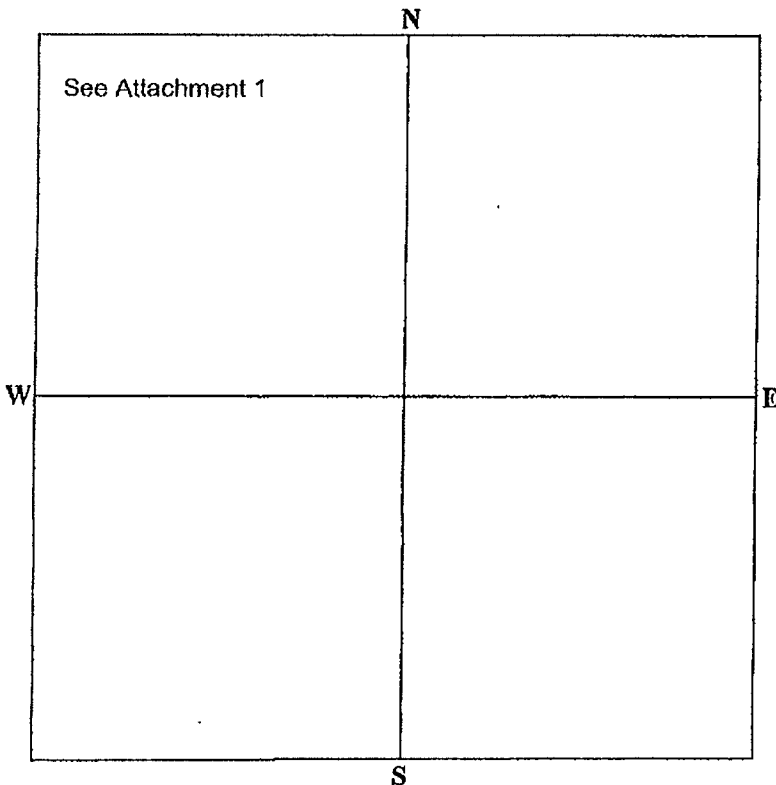
The undersigned Possum Kingdom Water Supply Corporation
(Names of Borrower and Co-Borrower)

whose address (Including ZIP Code) is _____
in accordance with the terms of the security instruments held by Rural Development or the Farm Service Agency (hereafter referred to as "Agency") on their property, apply for release or subordination of the liens of said security instruments or consent to the following transaction. The release of a small area of the retail water service area held by Possum Kingdom WSC's 12890 to Double Diamond Utilities Company pursuant to a letter agreement. See attached map (Attachment 1) showing the service area to be transferred and a copy of the letter agreement (Attachment 2)

(Description)

1. Plot of Property:

2. Prior lienholders listed in order:



3. The prior lien to which subordination is requested is to be held by:

4. The property to be leased or conveyed to:

Double Diamond Utilities Company, Inc.

5. Description of property to be covered by the release, subordination, or consent:

Those portions of Certificate of Convenience and Necessity (CCN) No. 12890 which Possum Kingdom Water Supply Corporation does not currently service as shown on Attachment 1.

6. The use to be made of the property covered by this application is:

The use of the property remains the same (i.e. residential)

7. The anticipated proceeds from this transaction are:

Initial payment \$ 1,000.00
Subsequent payment(s) \$ 0.00

Other considerations:

If the borrower obtains a loan from another lender as a result of any subordination covered by this application, the lender must incorporate in the borrower's note a statement that the loan will be in default should any proceeds of the loan funds obtained as a result of this subordination be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity.

N/A - no new loan will be required for this transaction.

8. Subject to the provisions of Paragraph 7 it is proposed to use the proceeds as follows:

Net proceeds after expenses to be applied as regular income to Possum Kingdom WSC.

Expenses include attorney fees and other actual costs of Possum Kingdom WSC


9. Have you or any member, stockholder, partner or joint operator of the entity borrower been convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance since December 23, 1985? Yes No

If yes, provide date of conviction and details on a separate sheet.

10. If this application is approved, the undersigned borrower(s) agree to comply with such terms as may be prescribed by Agency and to disposition of the proceeds as required by Agency pursuant to its regulations, including the method of applying payments to the borrower(s)' loan accounts. It is expressly understood that unless a separate written instrument of subordination or partial release is executed and delivered by Agency pursuant to this application, approval by Agency of this application will merely constitute and evidence its consent, as lienholder, to the proposed transaction without in any way subordinating its lien, releasing any of its security, modifying the payment terms of the loan, or otherwise affecting any rights of Agency.

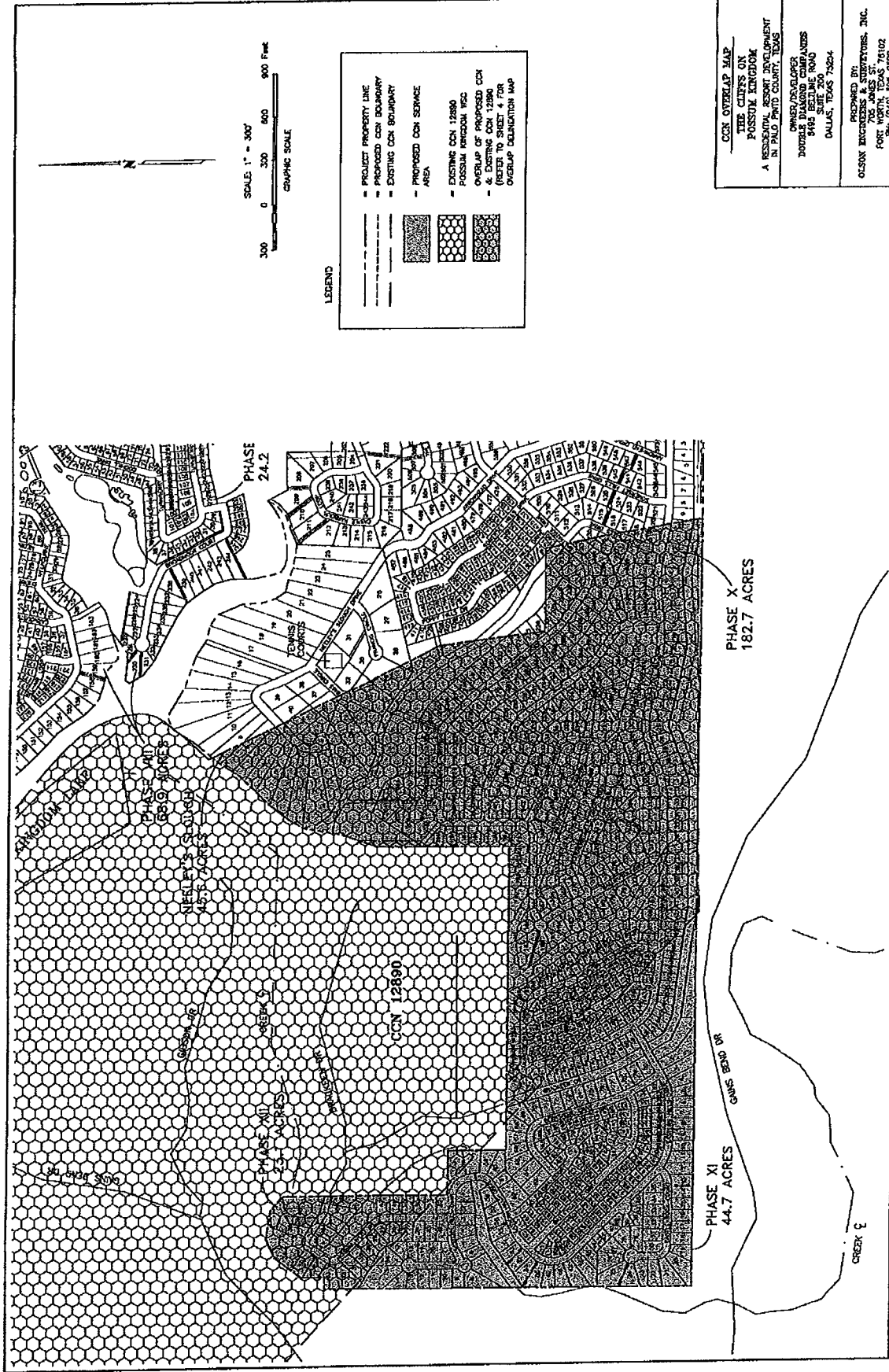
The borrower(s) agrees that none of the funds obtained as a result of any subordination covered by this application will be used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as explained in Exhibit M of Subpart G of Part 1940 of Title 7 of the Code of Federal Regulations.

Date 07-16-15

Signed 
Jeremiah Gore, General Manager (Borrower)

(Co-Borrower)

Attachment 1



SHEET 3

EXHIBIT 5

SEE PUC CENTRAL RECORDS
FOR CD