



FINAL PLAT REVIEW PUBLIC HEARING (PREVIOUSLY TABLED)

FOR: Bowen Arrow Subdivision
WHERE: 4752 W 6250 S
PREPARED FOR: Board of County Commissioners
Public Hearing of February 24, 2025

APPLICANT & OWNER: Bowen Arrow, LLC (Shayne Bowen)
ENGINEER/SURVEYOR: AW Engineering

OVERVIEW: AW Engineering, on behalf of the applicant Shayne Bowen of Bowen Arrow, LLC, has submitted an application for final plat of the Bowen Arrow Subdivision, a 7 lot subdivision on 40.6 acres. Boquet Creek runs across the property.

The application was continued on September 9, 2024 to see a revised plat with adjusted building envelopes for lots 1, 2, and 3, all of which will be no larger than 2 acres each and held to the southern portions of the lots and to eliminate the southern building envelope on lot 7. The application was granted a subdivision extension request on September 9, 2024 for an additional 8 months which allows the applicants to receive final plat approvals on or before March 8, 2025.

On October 28, 2024, at the BoCC Public Hearing for the Final Plat, some remaining issues were discovered about the water rights and distribution for this project. The BoCC motioned to table for the applicant to resolve the water rights issue. The applicant has submitted an irrigation exhibit and narrative on water rights.

APPLICABLE COUNTY CODE: Subdivision Final Plat Review pursuant to Title 9, Section 9-3-2-D, Teton County Subdivision Ordinance, (revised 5/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030);

LEGAL DESCRIPTION: RP04N45E313201 & RP04N45E313001

LOCATION: 4752 W 6250 S

ZONING DISTRICT: A/RR – 2.5

PROPERTY SIZE: 40.6 acres

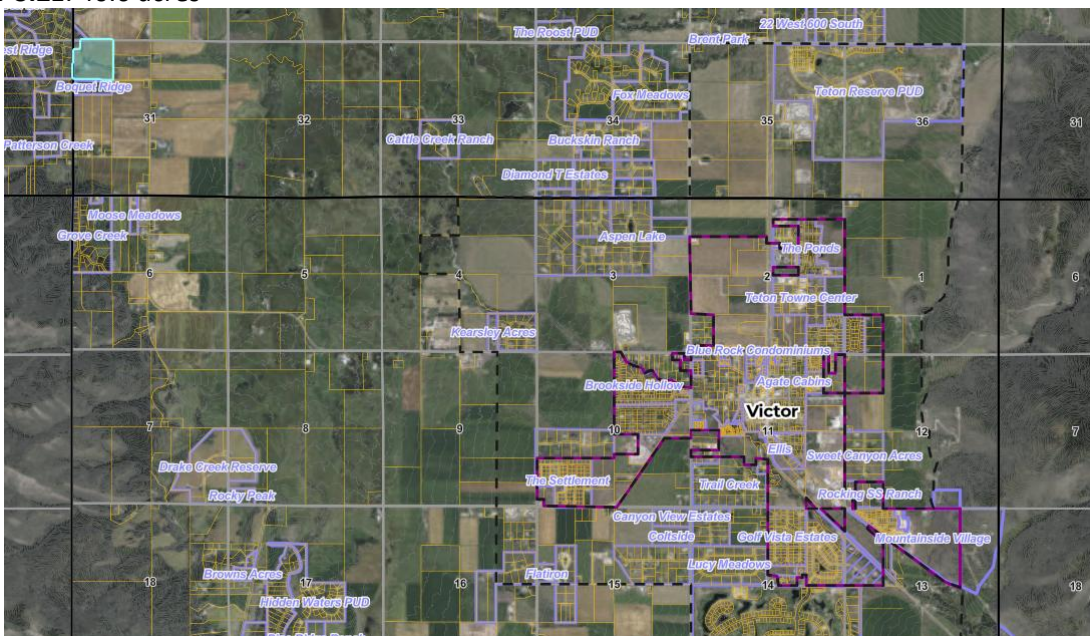


Figure 1. Vicinity Map; Subject Property Highlighted

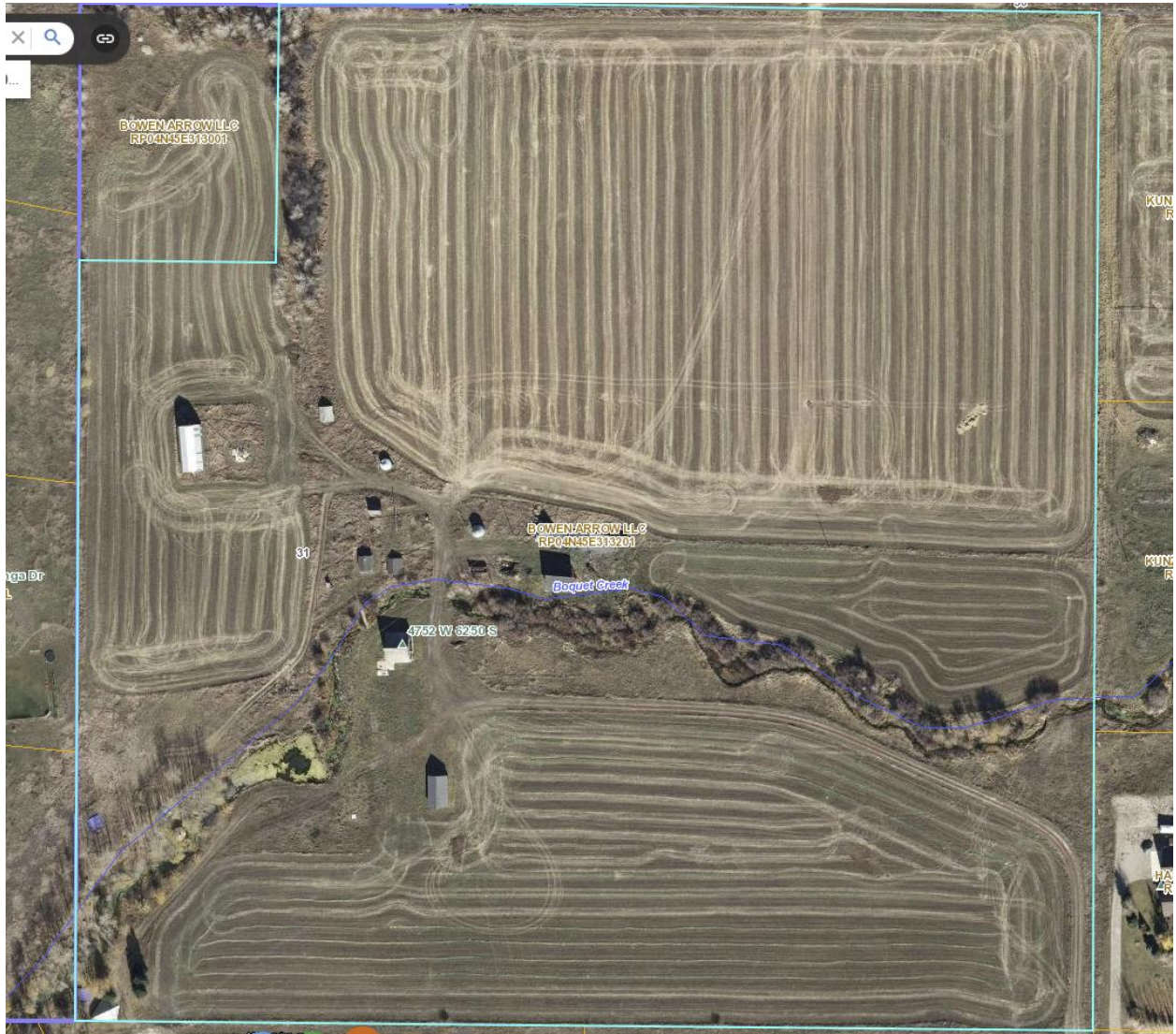
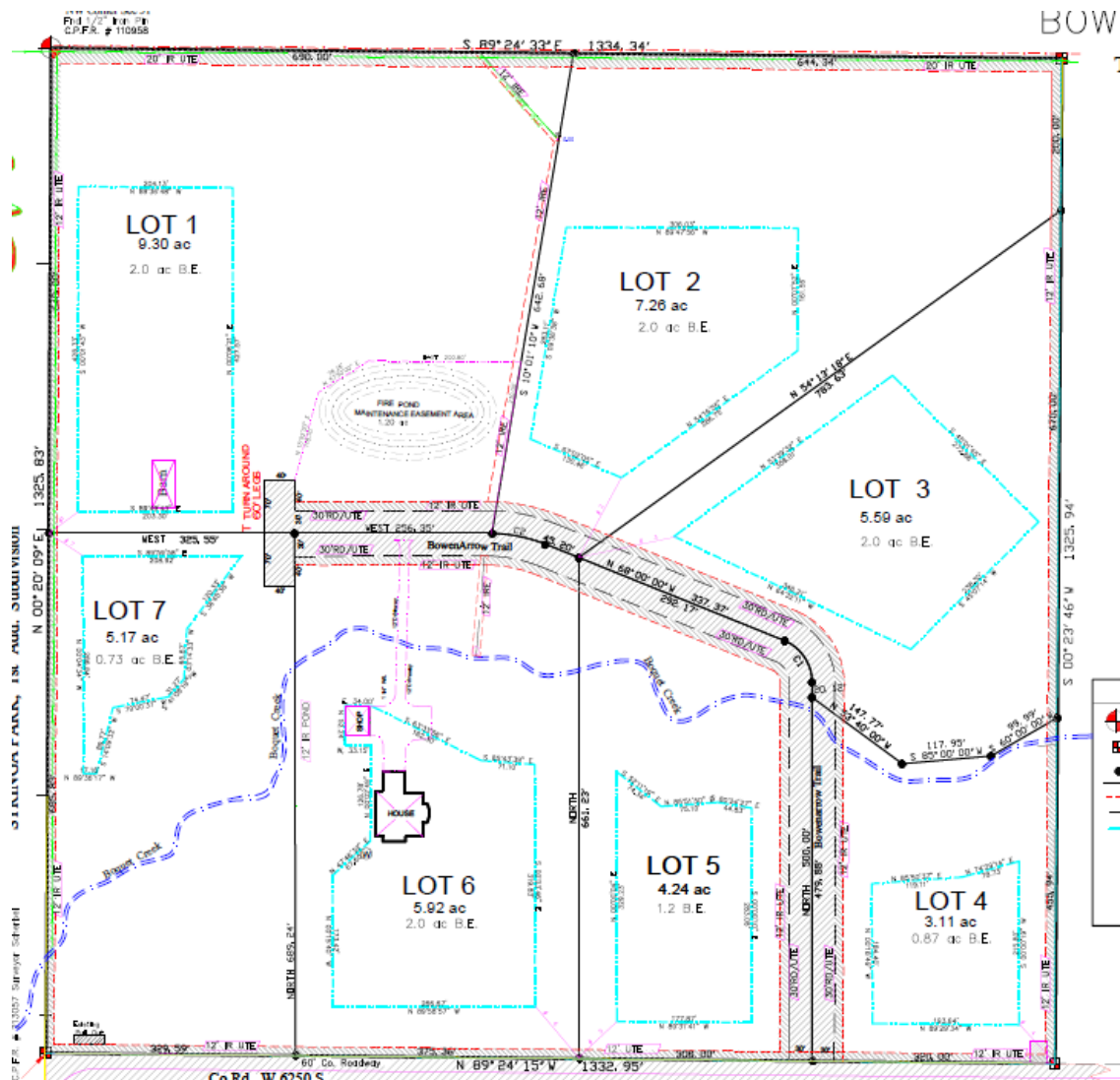


Figure 2. Aerial Image



PROJECT BACKGROUND & REVIEW HISTORY

Pre-application Conference: A pre-application was held via email on April 6, 2021.

Concept Plan: The Concept Plan was submitted and deemed complete on 7/16/2021. The concept review was done administratively and completed on July 16, 2021 by Gary Armstrong with two conditions of approval:

1. Begin working with EIPH for septic approval
2. Begin working with Teton County Fire District for fire access requirements.

OVERVIEW OF PRELIMINARY PLAT APPROVAL (9-3-2-C):

The preliminary plat phase is a two-step process with review by both the Planning and Zoning commission and Board of County Commissioners, where the fact-finding details and specific requirements of the ordinance and law are determined. All of the issues surrounding required infrastructure will be resolved, or have a clear solution acceptable to the County, before scheduling the final plat review.

Planning & Zoning Commission Review: On February 14, 2023 the PZC reviewed and approved the application with the following recommended conditions of approval:

MOTION: Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-C can be satisfied, I move to recommend APPROVAL of the Preliminary Plat for Bowen Arrow Ranch Subdivision as described in the application materials submitted on September 16, 2022, and additional information attached to the staff report with the following conditions of approval: 1) Letter from IDWR regarding water rights; 2) Clarification of accesses.
 1) IDWR letter regarding water rights & surface water rights; 2) negotiation of acces with Planning staff.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Wade Kaufman, Commissioner
SECONDER:	James Weber, Commissioner
AYES:	Timothy Watters, Chairman, Wyatt Penfold, Vice Chairman, Wade Kaufman, Commissioner, James Weber, Commissioner, Tyler Wertenbruch, Commissioner
ABSENT:	Rebeca Nolan, Commissioner, Lindsey Love, Commissioner

BoCC Preliminary Plat Review: On May 8, 2023, the BoCC reviewed the preliminary plat and made the following motion:

be requested.


MOTION: APPROVAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-C can be satisfied, I move to APPROVE the Preliminary Plat for Bowen Arrow Ranch Subdivision as described in the application materials submitted on September 16, 2022, and additional information attached to the staff report, with the following conditions of approval:

- 1. The yurt on Boquet Creek and future Lot 7 must be removed and re-set with appropriate setbacks from Boquet Creek before a final plat application may be submitted to Teton County. All structures on the property, including yurts, must meet code setback requirements for property boundaries and stream corridors.*
- 2. Address all public work comments.*
- 3. Update the Nutrient Pathogen Plat note (note 14) to include:*
 - a. A maximum of 5 bedrooms are allowed per lot.*
- 4. Consistent with EIPH comments, a plat note will be added that each building area will require a site-specific septic evaluation prior to application for a septic permit.*
- 5. A natural resource analysis will be completed to identify and, to the extent feasible, minimize wildlife conflicts.*
- 6. Building envelopes shall be shown on the final plat to require that all structures on the property shall be at least 100 feet from the delineated wetlands bordering Bouquet Creek.*
- 7. Before construction of the fire pond and submission of the final plat for approval, the applicant will obtain permits for the fire pond from Idaho Department of Water Resources and Army Corps of Engineers.*

Staff comment: The applicant has addressed items 1, 2, 3, 5, and 6. Applicant has changed fire suppression plans so that the fire pond is no longer proposed to be part of Boquet Creek.

Final Plat Review: On September 9, 2024, the BoCC made the following motion for continuation.

4. **2:00 PM – PUBLIC HEARING: Bowen Arrow Subdivision Final Plat Hearing** 
- Ms. Krueger presented the staff report for Bowen Arrow Subdivision Final Plat Hearing.
- Ms. Woolstenhulme, representing the applicant, was available for questions. Public comment was opened at 2:38 PM.
- Michelle Haskell, neighbor, voiced concern over where the entrance to the subdivision will be.
- Arnold Woolstenhulme with AW Engineering stated that a new access has been identified that should alleviate the Haskell's concern.
- Board deliberation. Ms. Krueger stated that the application has until March 8, 2025 to receive final approval and then 18-24 months to complete improvements. The Board discussed requiring 2 acre max building envelopes and clustering development along the interior subdivision road.

MOVER: Bob Heneage

SECONDER: Cindy Riegel

I move to continue the public hearing for Bowen Arrow Subdivision Final Plat in order to obtain additional information from the applicant to Oct 28th at 3:30 PM, in order to see a revised plat reducing the size of the building envelopes on lots 1, 2 and 3 to no more than 2 acres each and held to the southern portion of those lots, and to eliminate the southern building envelope on lot 7.

AYES (3) Bob Heneage, Cindy Riegel, and Michael Whitfield

Staff comment: Applicant has submitted a revised final plat with the requested building envelope amendments.

October 28 2024 BoCC Meeting:

5. **3:30 PM – PUBLIC HEARING Bowen Arrow Subdivision Final Plat Hearing [Continuation]** 

This is a continuation of a prior hearing. Ms. Krueger gave the staff report for Bowen Arrow Subdivision Final plat hearing.

Sharon Woolstenhulme, representing the applicant, felt the conditions had been met. She would add the requirement for a site specific evaluation prior to applying for a septic permit.

Public comment was opened at 4:20 PM.

Jake Kunz clarified that the Bowens do not have any water rights. He does not believe that the pond is a pond. Henderson is a dead creek and is not reliable a water source. The Bouquet Springs pump has a maximum rate of 1.07 cfs and cannot deplete the aquifer (Bouquet Springs). The Bouquet Springs well is a 1970 right, his family's right is from 1890. He also thanked the Board for the call out on regulating septic. Arnold Woolstenhulme confirmed that the Bowens have water rights on Bouquet Creek for watering cattle. They also have a culinary well. There is also a capped old artesian well that may come into play. Bowen Arrow 1965 water right, .8 cfs, Bouquet water well 1977 irrigation for ag and is .6 cfs. 1 cfs equals 449 gals/minute.

Pete Brannen, neighbor, commented that the Lot 1 building envelope is where the migration corridor is.

Public comment was closed at 4:30 PM.

Board deliberation. The Board asked what the requirement for the flow for a fire pond is. Staff responded with 500 gallons per minute. Mr. Woolstenhulme clarified that the code does not require a constant flow of 500 gals/minute. Staff asked the applicant if the Fire Marshall had signed off on the new potential source. Mr. Woolstenhulme responded that no, until all parties involve agree upon the source they have not approached the Fire Marshall. Staff asked when the plan would be finalized. Mr. Woolstenhulme hoped to have it finalized within a few weeks.

MOVER: Michael Whitfield

SECONDER: Cindy Riegel

Table the public hearing for Bowen Arrow Subdivision Final Plat in order to obtain additional information regarding the source of water for the fire protection and consideration of moving building envelope for Lot 1 farther to the south to minimize wildlife impacts..

AYES (3) Bob Heneage, Cindy Riegel, and Michael Whitfield

Adopted (3 to 0)

Staff comment: The applicant submitted an updated narrative related to water rights and irrigation drawings but did not provide further clarity on quantity per the public comments.

REVIEW & INTER-AGENCY COMMENTS:

The County has solicited comments from other agencies and has received comments from the following entities.

- **ROADS & UTILITIES:** A review by Public Works is attached (letter dated 9/3/24).
 - Fire Pond Improvement Plans show Boquet Creek running through the proposed fire pond. Planning Department should confirm the proposed pond location with respect to Boquet Creek is permitted. will be constructed along Boquet Creek. I do not know if this is permitted. This review does not include approval of the fire pond being constructed along Boquet Creek. Developer should confirm that this proposes activity is permitted.
 - *Staff comment: Applicant has amended fire pond plans after withdrawing their application with IDWR to transfer water rights. The pond will be filled with irrigation water rights and a domestic well. A copy of the water rights report is attached.*
- **FIRE PROTECTION:** The proposal is for more than two lots triggers and therefore triggers the need for fire suppression. The applicant is proposing a fire pond and has been approved by TC Fire Marshal for approval of water source and apparatus. The water source has shifted since the project's original proposal. TC Fire Marshal should review water source.
- **WASTEWATER TREATMENT:** The applicant has coordinated directly with EIPH and received Preliminary Approval as of 8/17/22.
- **PLANS & STUDIES:** The property is within the Wetlands & Waterways overlay as well as the regulatory floodplain. An NRA was provided as well as a Nutrient Pathogen Evaluation.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE

Idaho Code, Title 67, Section 67-6509, 67-6511, 67-6512, and Title 9, Section 9-3-2-D2 of the Teton County Code. The public hearing for the Board of County Commissioners meeting was duly noticed in the Teton Valley News on February 5 and February 12, 2024. A notification was sent via mail to surrounding property owners within a 300-foot buffer area on January 31, 2025. A notice was also posted on the property providing information about the public hearing.

PUBLIC COMMENTS:

The staff has received several public comments. General comments relate to density concerns, congestion, wildlife and speeding concerns. All public comments received are included. No new public comments for the February 2025 hearing have been received.

OVERVIEW OF FINAL PLAT APPROVAL (9-3-2-D2):

This phase of the subdivision/PUD process is to present the Board of County Commissioners the completed documentation as required by this Ordinance for a final review before rendering a decision to approve, deny, amend or remand this application. If the Board elects to amend the application, additional findings and reasoning shall be made in writing in accordance with State code. Otherwise the findings and reasoning should be contained in the Master Plan / Development Agreement / and Final Plat. (amd. 06-05)

CONSIDERATION OF APPROVAL:

In conjunction with the decision for approval, approval with conditions, or denial of an application for a subdivision or PUD, the Board shall make written findings with respect to the items required with the submission of the application and the criteria below. Additional written findings are not necessary where the public documents or records of the public hearing already provide a written record.

- i. Each exception to otherwise applicable restrictions shall be identified and the reasons supporting the exceptions stated.

- ii. The subdivision or PUD is consistent with the public health, safety and welfare of the County and with all applicable provisions of Title 9 and Title 8 of the Teton County code. (amd. 11-14-08)
- iii. The information required in the application has been verified and is correct.

FINDINGS:

No exceptions to applicable restrictions were identified. No conflict with provisions of County Ordinances have been identified. No errors have been identified in the application.

All final plats are subject to a final, technical survey review before recording can occur. All property taxes must all be paid in full.

CONDITIONS OF APPROVAL

- 1. A final technical survey review be completed before mylars can be printed.
- 2. The fire suppression improvement plans be updated before recordation regarding water source, and the fire marshal approve them.

BOARD OF COUNTY COMMISSIONERS ACTIONS

- A. Approve the Final Plat, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approve the Final Plat, with modifications to the application, or adding conditions of approval, having provided the reasons and justifications for the approval and any modifications or conditions.
- C. Deny the Final Plat application and provide the reasons and justifications for the denial.
- D. Continue to a future BoCC Public Hearing with reasons given as to the continuation or need for additional information.
- E. Table to a future BoCC meeting with reasons given for the continuation or need for additional information

POSSIBLE MOTIONS

The following motions could provide a reasoned statement if a Commissioner wanted to approve or deny the application:

APPROVAL

Having concluded that the Criteria for Approval of a Final Plat found in Title 9-3-2-D can be satisfied, I move to APPROVE the Final Plat for Bowen Arrow Subdivision as described in the application materials submitted July 23, 2024 and additional information attached to the staff report. (with the following conditions of approval...)

DENIAL

Having concluded that the Criteria for Approval of a Final Plat found in Title 9-3-2-D have not been satisfied, I move to DENY the Final Plat for Bowen Arrow Subdivision as described in the application materials submitted July 23, 2024 and additional information attached to the staff report, based on the following findings: ...

CONTINUATION

*I move to continue the public hearing for Bowen Arrow Subdivision Final Plat in order to obtain additional information from the applicant or other agencies to the following hearing **date and time**...*

Prepared by:
Jade Krueger, Interim Planning Administrator

ATTACHMENTS:

- | | | |
|-------------------------------------|--|-------------------------------------|
| A. Final Plat Application (3 pages) | D. Improvement Plans Fire Pond (3 pages) | H. Development Agreement (15 pages) |
| B. Final Plat (2 pages) | E. Improvement Plans Erosion (2 pages) | I. CCRs (7 pages) |
| C. Improvement Plans (3 pages) | F. Lot 7 Site Plan (1 page) | J. Public Works Review (1 page) |
| | G. Water Rights (3 pages) | |

K. Nationwide Permit (47 pages)
L. Access Permit (4 pages)
M. Public Comment (7 pages)

N. IDWR Stream Crossing Permit
O. Narrative from applicant
P. Irrigation drawings
Q. Public Comment

R. Public Comment

END OF STAFF REPORT