

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO ex rel.)	CIVIL ACTION FILE NO.
State Engineer,)	6:69-CV-07941-BB
)	RIO CHAMA STREAM SYSTEM
Plaintiff,)	Village of Chama, Section 7
)	Subfile No. CHCV-004-0004A
v.)	
)	AMENDED STATEMENT OF WATER
ROMAN ARAGON, et al.,)	RIGHT CLAIM BY JAMES A. HEATH
)	AND DOS RIOS RANCH, LLC
Defendants.)	
)	

James A. Heath, a resident of Santa Fe, New Mexico (“James Heath”) and Dos Rios Ranch, LLC, a New Mexico limited liability company (“Dos Rios Ranch, LLC”) (together, sometimes, “James Heath”), hereby submits this amended statement of water rights claim to the water rights appurtenant to a certain 24.5 acres of land, as described in more detail below. As support for his water rights claim, James Heath respectfully states as follows:

1. This amended statement of claim amends the claim originally filed on October 9, 2007, and seeks an adjudication in favor of James Heath for water rights described in Chamita Valley Ditch File No. SP-968, subfile CHCV-004-0004A (the “968-0004A Subfile”), in the Office of the State Engineer, the same being part of the water rights subject to the present adjudication.
2. On May 30, 2003, James Heath, as grantee, from Dos Rios Development, LLC and its manager Chama Investments, Inc., as grantor (separately or together, “Grantor”), obtained fee simple title by a Warranty Deed (the “2003 Deed”) to that certain real property, part

of the Historic Hall Ranch, more particularly described in Exhibit A attached hereto (“Dos Rios Ranch”).

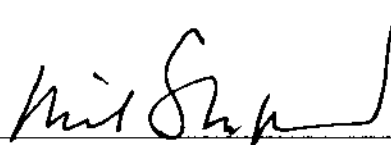
3. At the same time James Heath acquired title to Dos Rios Ranch by the 2003 Deed, he simultaneously acquired from Grantor all right, title and interest in and to 140 acres of surface water, those being all water rights of the Historic Hall Tract as of that date (the “Historic Hall Water Rights”) (together, the “Transaction”). Some of the Historic Hall Water Rights purchased by James Heath were appurtenant to a certain 24.5 acres adjacent to Dos Rios Ranch, the 24.5 acres being described in that certain plat of survey made on or about May 8, 2003 and attached hereto as Exhibit C, and identified by the portion that is cross-hatched.
4. Based on the 2003 Deed and the Transaction, Grantor had all right, title and interest in and to the Historic Hall Water Rights, which included the 24.5 acres at the time of the Transaction, the same having been acquired by Grantor prior to May 30, 2003.
5. James Heath transferred fee simple title and the Historic Hall Water Rights to Dos Rios Ranch, LLC, a New Mexico LLC, by Grant Deed, attached hereto as Exhibit D.
6. The 24.5 acres is displayed on the map attached hereto as Exhibit E. The subfile designation within the 968-0004 Subfile, 004-0004A, suggests that Grantor may purport to own the water rights on the 24.5 acres.
7. The water rights appurtenant to the 24.5 acres were severed therefrom by their transfer to James Heath in the 2003 Deed and in the Transaction, and by Grantor’s failure to reserve water rights in the 2003 Deed or otherwise in the Transaction. To the extent that any of

the Historic Hall Water Rights were held by Grantor at the time of the Transaction, any such water rights are included within this claim.

8. On information and belief, there are no deeds, permits, or licenses that create any water rights superior to this claim by James Heath.

WHEREFORE, James Heath respectfully asks the Court to accept this Amended Statement of Water Rights Claim; to award to James Heath and/or Dos Rios Ranch, LLC, the water rights on the 24.5 acres; and for such other and further relief in law and equity arising from the water rights on the 24.5 acres as he may be entitled to in the premises.

Respectfully submitted this 6th day of March, 2008.



Richard S. Mackenzie
Attorney for JAMES HEATH
1127 Paseo de Peralta
Santa Fe, NM 87501
(505) 982-9823
fax (505) 982-8329
rmlaw202@aol.com

Certificate of Service

I hereby certify by my signature above that on the above date I served a true copy of the foregoing document upon the parties as follows:

by CM/ECF notice to:
Hon. Edward G. Newville
Special Assistant Attorney General
for the Office of the State Engineer
Post Office Box 977
Placitas, NM 87043
ednewville@ixpn.com

by CM/ECF notice and regular mail to:
Dos Rios Development LLC
Chama Investments, Inc.
Attn: Mr. Dan Terrell, President
Post Office Box 116
Chama, New Mexico 87520

WARRANTY DEED

Dos Rios Development LLC, a New Mexico limited liability company
for consideration paid, grants to
James A. Heath, a single man
whose address is 438 San Pasqual, Santa Fe, NM 87501
the following described real estate in Rio Arriba County, New Mexico:

North Tract, containing 35.00 acres and South Tract, containing 327.77 acres, as shown on plat entitled "PLAT OF BOUNDARY SURVEY OF TWO PARCELS FOR DOS RIOS DEVELOPMENT, LLC A PORTION OF THE HISTORIC HALL TRACT... LYING WEST OF THE VILLAGE OF CHAMA...", filed in the Office of the County Clerk, Rio Arriba County, New Mexico, on May 29, 2003, in Plat Book A1, page 161, as Document No. 233446.

233541

FILED IN THE COUNTY CLERK'S OFFICE AT 1:20 CLOCK P.M. Book 447 Page 525 MAY 30 2003

[Signature]
County Clerk RA County New Mexico Deputy

Subject to: Reservations, restrictions and easements of record and taxes for the year 2003 and thereafter with warranty covenants.

Witness my hand this 30th day of May, 2003 .

[Signature]
Dos Rios Development, LLC

ACKNOWLEDGEMENT FOR CORPORATION

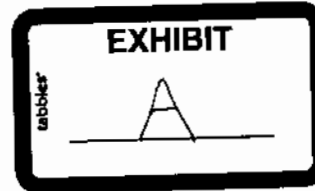
State of New Mexico)
) SS.
County of Rio Arriba)

This instrument was acknowledged before me on this 30th day of May, 2003, by Richard R. Terrell, Vice President, of Chama Investments, Inc., a New Mexico corporation, as managing partner of Dos Rios Development, LLC, a New Mexico limited liability company, on behalf of said corporation.

My commission expires: _____

[Signature]
Notary Public

(Seal)



0600 2005 0211

File No. 00310022 JR2 / Chama Title Company, Inc.

WARRANTY DEED

Dos Rios Development L.L.C., a New Mexico limited liability company, for consideration paid, grants to James A. Heath, a single man whose address is 438 San Pasqual Santa Fe, NM 87501 the following described real estate in RIO ARRIBA County, New Mexico:

SOUTH TRACT, containing 13.156 acres, as shown on plat entitled "SURVEY FOR DOS RIOS DEVELOPMENT, LLC WITHIN THE VILLAGE OF CHAMA A PORTION OF THE HISTORIC HALL TRACT...", filed in the Office of the County Clerk, Rio Arriba County, New Mexico, on December 30, 1999, in Plat Book S-022, page 6352, as Document No. 164430.

RIO ARRIBA JAMES HEATH, COUNTY CLERK 200508226 Book 528 Page 8226 1 of 1 10/28/2005 01:09:48 PM BY ISLORA



6228768

Subject to: Reservations, restrictions and easements of record and taxes for the year 2004 and thereafter, with warranty covenants.

Witness my hand this 15th day of June 2004

[Signature]

Dos Rios Development L.L.C., a New Mexico limited liability company, by: Chama Investments, a New Mexico corporation, as Managing Partner

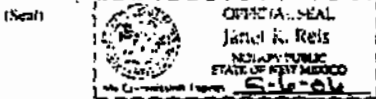
ACKNOWLEDGEMENT FOR CORPORATION

State of New Mexico) County of Rio Arriba) ss.

This instrument was acknowledged before me on this 15th day of June 2004 by Richard B. Terrell, Vice President, of Chama Investments, a New Mexico corporation, on behalf of said corporation.

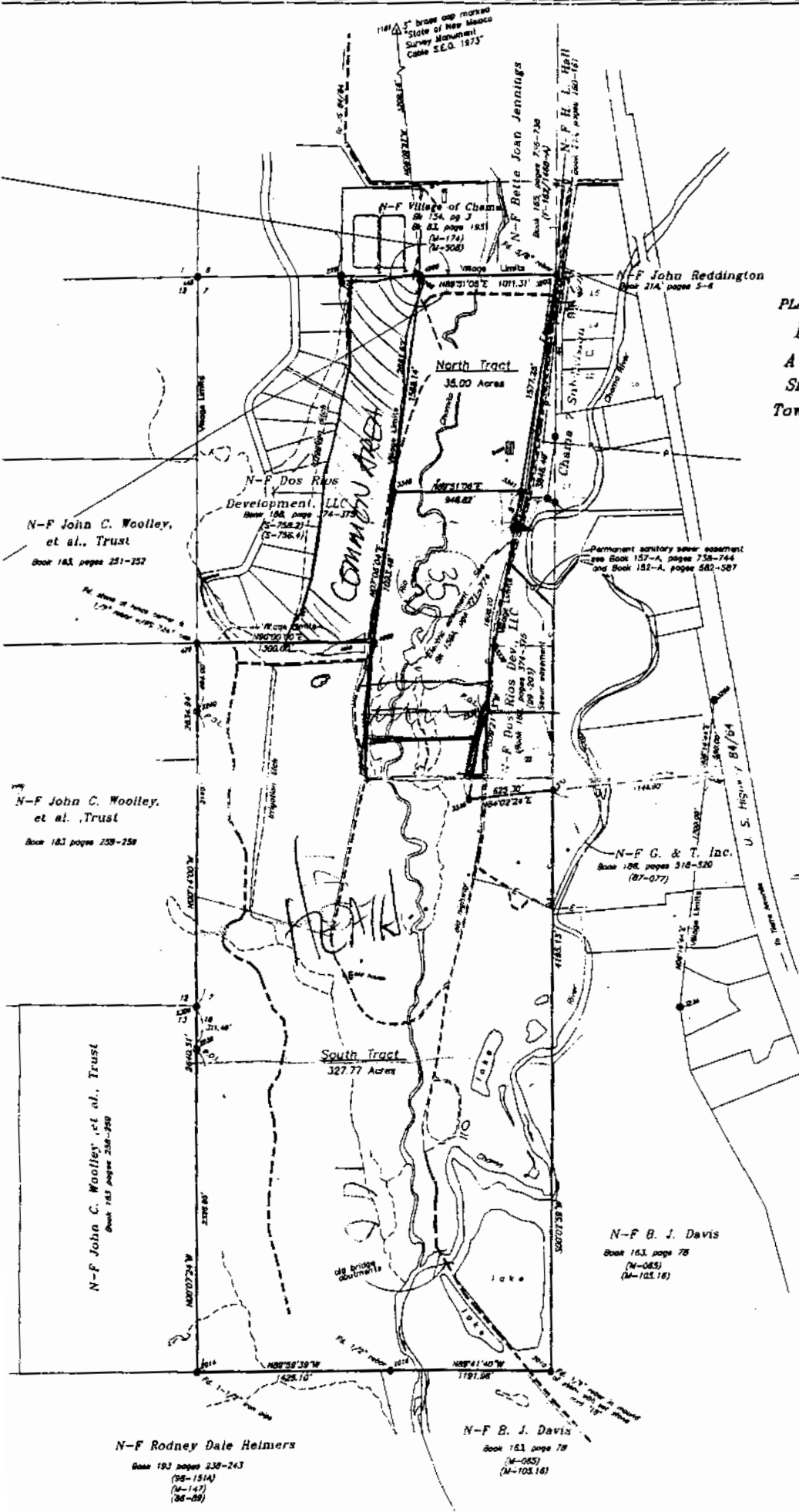
My commission expires:

[Signature] Notary Public

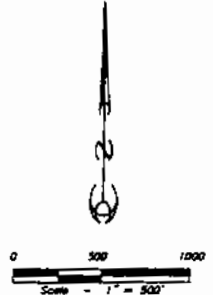


NEW MEXICO WARRANTY DEED

EXHIBIT B



**PLAT OF BOUNDARY SURVEY OF TWO PARCELS FOR
DOS RIOS DEVELOPMENT, LLC**
A Portion of the Historic Hall Tract
Situated in Projected Sections 26 & 35
Township 31 North, Range 3 East, N.M.P.M.
Lying West of the Village of Chama
Within the Tierra Amarilla Grant
Rio Arriba County, New Mexico



- ⊙ - Point on line set this survey, 1/2" rebar w/PS 7241/12575 cap
- ⊙ - Found 1/2" rebar with PS 7241 cap unless otherwise noted
- - - - - Existing fence
- - - - - Paper line
- - - - - Power pole
- - - - - Easement
- - - - - Sewer easement
- - - - - Oil road
- - - - - Arroyo cut or drainage
- - Lake or pond

EXHIBIT

C

REVISIONS		
Date	By	Description

date: 8 May 2003 drafter: JA

CP 03-025 July 03-026 Aug 03-028

PLANNING INFORMATION FOR THE COUNTY CLERK

PROJECT: Dos Rios Development, LLC

APPLICANT: D.A.

grant: Tierra Amarilla

Township 31N Range 03E Section 26



03-028