

IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

10/29/2020

Water Permit 72-7454

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ANN C HICKS 799 BRICKELL PLAZA 9TH FLOOR MIAMI, FL 33131 (305) 374-8171
Current Owner	ROBERT L NORTON , ZZ
Current Owner	SUSAN P NORTON , ZZ
Current Owner	MARK HICKS 799 BRICKELL PLAZA 9TH FLOOR MIAMI, FL 33131 (208) 622-5904
Original Owner	C & D ENTERPRISES INC , ZZ

Status: Cancelled

Source

Tributary

Beneficial Use

From

To

Diversion Rate

Volume

Source and Point(s) of Diversion

Place Of Use

Conditions of Approval:

Comments:

Dates and Other Information

Water District Number: TBD

Mitigation Plan: False

Combined Use Limits

N/A

SubCase:

N/A

Water Supply Bank:

N/A



IDAHO DEPARTMENT OF WATER RESOURCES
Proof Report

10/29/2020



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

February 10, 1997

PHILIP E. BATT
GOVERNOR

MARK AND ANN C HICKS
ROBERT L AND SUSAN P NORTON
100 W BISCAYNE BLVD #2402
MIAMI FL 33132

KARL J. DREHER
DIRECTOR

RECEIVED

FEB 13 1997

RE: Permit No. 72-07454

Department of Water Resources
Southern Region

Dear Water Right Holders:

The accompanying order is a "preliminary order" issued by the Department of Water Resources (the Department) pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration within fourteen (14) days after issuance as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the Department within fourteen (14) days of the service date of this order. The Department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on his own motion.

72-07454

ORAL ARGUMENT

If the Department grants a petition to review the preliminary order, the Department shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Department in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Department may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The Department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT


Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,

- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:ph

Enclosures

STATE OF IDAHO

**PRELIMINARY ORDER
VOIDING PERMIT**

FINDINGS OF FACT

1. On December 28, 1989, C & D Enterprises, Inc., applied to the Department for a permit to appropriate 0.10 cubic feet per second of water from the Salmon River, tributary of the Snake River, in Lot 8 (NWSW), Section 28, Township 13N, Range 19E, B.M., Custer County, to be used for irrigation and stockwater purposes.
2. On August 13, 1990, the Department approved the application as Permit No. 72-07454 (the permit).
3. On October 21, 1993, C & D Enterprises, Inc., assigned the permit to Phyllis Wagner.
4. On October 27, 1993, Phyllis Wagner submitted Proof of Beneficial Use for the permit.
5. On December 3, 1993, Phyllis Wagner assigned the permit to Mark and Ann C. Hicks and Robert L. and Susan P. Norton (permit holders).
6. On August 16, 1996, Department personnel conducted a field examination to verify that water had been diverted and applied to a beneficial use in accordance with the permit. The

examiner could find no evidence that the permit holder had diverted water and applied it to a beneficial use.

7. On November 12, 1996, the Department sent the permit holders a letter giving them thirty days to submit evidence demonstrating that a beneficial use of water had been developed under the permit.

8. On November 12, 1996, at the request of the permit holders, the Department extended to sixty days the length of time for them to submit evidence in support of the permit.

9. The permit holders have not responded to the Department's notice.

CONCLUSIONS OF LAW

1. Section 42-219, Idaho Code, states:

In the event that the Department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of use which is in accordance with the permit, or may refuse issuance of a license and void the permit.


2. Examination by the Department found that no beneficial use of water was developed under Permit No. 72-07454.

3. The Department should void the permit pursuant to Section 42-219, Idaho Code.

ORDER

IT IS THEREFORE, HEREBY ORDERED that Permit No. 72-07454 is **VOIDED** and issuance of a license is **REFUSED** under Section 42-219, Idaho Code.

Dated this 10th day of February, 1997.


L. GLEN SAXTON, Chief
Water Allocation Bureau

STAFF ANALYSIS SHEET FOR BENEFICIAL USE FIELD EXAMS:

PERMIT NO.

72-07454

A. Items To Be Placed In Exam File (Items A & B to be Completed by Compiler)

- (X) Blank Field Report & Notice of Completed Exam
- (X) Copy of App. for Permit, Approved Permit, Amendments, Orders, Assignments, Proof of Beneficial Use, SRBA Claim (Claim Filed? _____ Required? _____)
- () Well Inspection Form, Dairy Water-Use Worksheet (if applicable)
- () Well Log(s) & Groundwater Measurement Analysis Form (if applicable)
- (X) Copy of Orthophotoquad Map
- () 660-Scale Aerial Photo (Examiner Will Obtain If Applicable)
- () Government Lot Plats (If Applicable)

B.1. P/D Overlap - Yes or No If Yes, Include Copy of Overlapping Rights & Claims

- If Yes, Type of Overlap: () Add Acres or Uses to Existing System
() Increase Rate of Flow or Volume

B.2. P/U Overlap - Yes or No If Yes, Include Copies of Overlapping Rights & Claims

- If Yes, Type of Overlap: () Increase Rate of Flow or Volume
() Add Supplemental Water Source
() Increase Acres Within Tracts

C. Field Exam Appointment Made:

Date 8/16/96 Time 1:00 Place _____

Contact Person & Phone

Mark Hicks 305-374-8171

D. Post-Exam Review & Processing

Exam Completed 8/16/96

Notice of Completion Turned In 9/9/96

Field Report Completed 9/9/96

Area L Becklund 9/9/96
Signature of Examiner & Date

Field Report Reviewed by Sr. Agent _____ (Initial & Date)

Field Report Reviewed by Region Mgr. AD 9/11/96 (Initial & Date)

Field Report Sent to S.O. _____ Region Card File Updated _____

[illegible]

[illegible]

Photo of Diversion and System Attached

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

E. NARRATIVE/REMARKS/COMMENTS

This permit is for .08 cfs for irrigation and .02 cfs for stock use. I contacted Mr. Hicks at his law office in Miami. I told him who I was and what I was doing. He told me he was flying to Idaho and possibly could meet with me on 8/16/96. I asked him if we couldn't meet if I could still do a field exam and take pictures. He asked me what I was looking for. I told him to see if the water that was permitted for his property was being used beneficially. He said since he had the property, nothing has been done. It has not been developed. He was not sure if he wanted me to look at the property. He asked what the options were. He talked to Corey Skinner later that week. (Conversation memo with field report) Corey told him to send evidence of use. Mr. Hicks was told it was up to him to prove use. Corey told him there were options other than this permit. He said he would find out what he could and call back. He never did call or meet for a field exam. I did look at the property and took pictures. The pictures show clearly that there is no irrigation or stock use. Hick's neighbor, Ken Rodger, stated to me on his field exam that there were horses on Hick's property. It was not clear if the horses had a stock tank or if they drank from the Salmon River itself. The last contact with Hicks was 8/13/96. It is now 9/9/96 with no evidence of use. Mr. Hicks did ask me if we were sent to pick on him. I told him no.

Have conditions of permit approval been met? ☐ yes ☒ no This was just procedure

F. FLOW CALCULATIONS

____ Additional Computation Sheets Attached

Measured Method:

no pump
no means of irrigation**G. VOLUME CALCULATIONS**

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = \underline{n/a}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 = \underline{\hspace{2cm}}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = \underline{\hspace{2cm}}$$

2. Volume Calculations for Other Uses:

no stock tank for stock use

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
<u>NONE</u>				
Totals:			<u>-</u>	<u>-</u>

2. Recommended Amendments

____ Change P.D. as reflected above ____ Add P.D. as reflected above ☒ None
____ Change P.U. as reflected above ____ Add P.U. as reflected above ____ Other

I. AUTHENTICATION

Field Examiner's Name

Lora L. Bucklund Date 9/9/96

Reviewer _____

Date _____

SEAL

CONVERSATION MEMORANDUM

NAME OF PARTY MARK HICKS
EMPLOYEE COREY SKINNER /S

DATE 08/13/96
FILE 72-07454

RE: _____

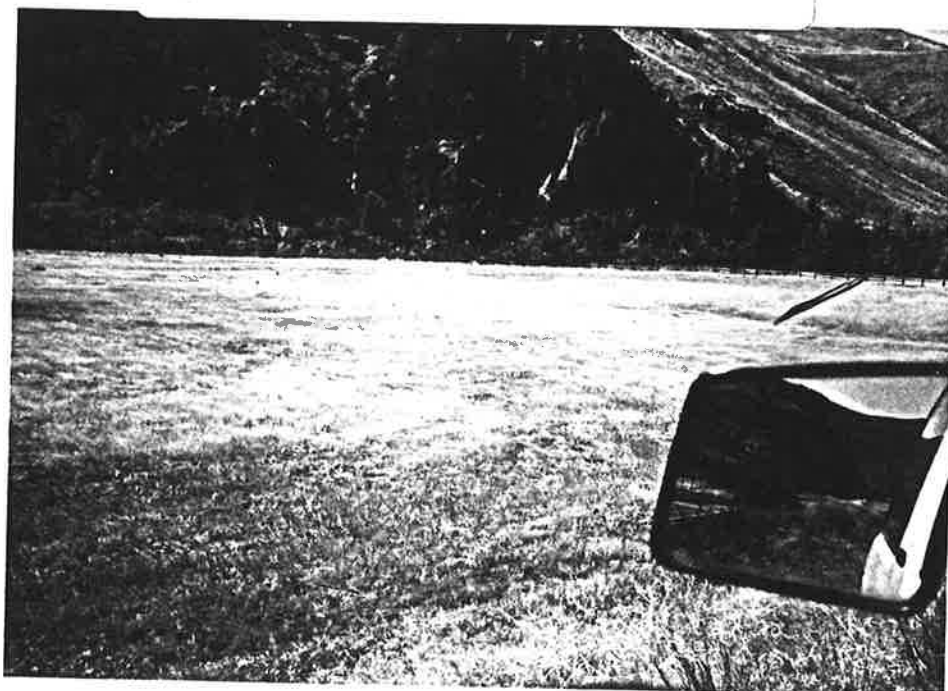
THIS DAY MARK HICKS CALLED AND INQUIRED ABOUT HIS WATER PERMIT. MR. HICKS IS FROM FLORIDA AND WAS NOT AWARE THAT HE HAD TO USE HIS PERMIT/WATER RIGHT IN ORDER TO KEEP IT. APPARANTLY MR. HICKS OBTAINED THE PROPERTY AROUND THE END OF 1993 (BASED ON PERMIT ASSIGNMENT IN FILE) FROM PHYLLIS WAGNER. MS. WAGNER HAD FILED PROOF IN OCTOBER OF 1993 (15 H.P. PUMP, IRRIGATION 2.8 ACRES, STOCKWATER 5 CATTLE AND 5 HORSES). MR. HICKS SAID THAT EVER SINCE HE HAS OWNED THE PROPERTY THERE HAS BEEN NO USE OF THIS RIGHT. I TOLD HIM THAT IT WOULD BE UP TO HIM TO PROVE THE EXTENT OF USE OF THIS PERMIT WHEN PROOF WAS FILED (1993 BY MS. WAGNER) I ADVISED HIM TO TALK TO NEIGHBORS, MS. WAGNER, INVESTIGATE THE PROPERTY THOROUGHLY, AND TO POSSIBLY CONSIDER PHOTOGRAPHS OF THE PROPERTY IN 1993. IF HE COULD NOT PROVE ANY USE THEN THERE WERE STILL WATER DEVELOPMENT OPTIONS AVAILABLE TO HIM SINCE THE SALMON-CLEARWATER ~~DEVELOPMENT~~ MORATORIUM WOULD ALLOW HIM TO STILL DRILL A WELL FOR CONSUMPTIVE USES IF HE ~~BE~~ SO DESIRED. HE SAID HE WOULD FIND OUT WHAT HE COULD, AND WOULD CALL BACK.

(Rodgers)
neighbor's
fence



72-07454
NORTHSIDE OF HICKS AND NORTON'S
PROPERTY LOOKING EAST.
NEIGHBOR'S SPRINKLERS SPRAYS OVER
FENCE OTHERWISE NO IRRIGATION

72-07454
SOUTHSIDE OF PROPERTY LOOKING
EAST, NO IRRIGATION

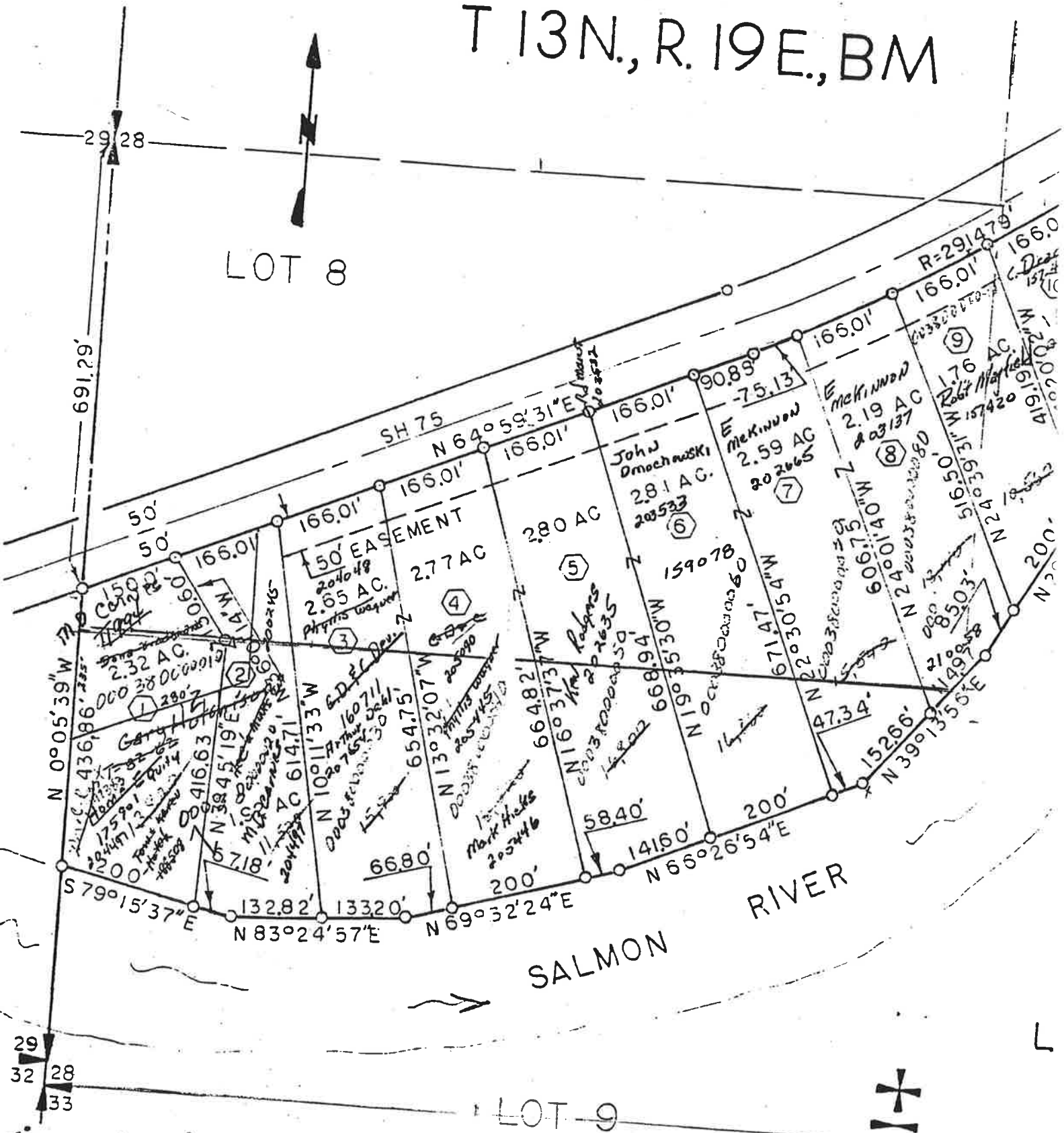


property line
between
Hicks &
Dahls

SECTION 28

T 13N., R. 19E., BM

LOT 8



SALMON RIVER

LOT 9

Engineer's Approval

have examined the foregoing Plat
as shown hereon and
acceptance of said plat for recording



SCALE

Surveyor's Certificate

I, W.B. Kremer Civil Engineer, that have surveyed the Boundary Description attached and staked on the ground according to shown hereon. I further certify a copy of the original plat is on file in the STATE OF IDAHO

Boundary Description

A portion of Lot 8 & Lot 3 of Section 28, Township 13 North, Range 19 East, Beginning at a Point $50^{\circ}05'39''E - 69.1070.93$ feet; thence along the southwest corner thereof to the easterly boundary of U.S. Highway 1070.93 feet; thence along said boundary, being a 2914.70 feet run $S 24^{\circ}04'34''E - 331.26'$ to a point in thence southwesterly following the mean $S 29^{\circ}38'20''W - 485.03'$, $S 69^{\circ}32'24''W - 325.20'$, $S 83^{\circ}24'57''W - 436.86'$ along said west line to the Subject to a 50' Easement for an acc

Owner's Declaration

KNOW ALL MEN BY THESE PRESENTS Owners of the tract of land described hereon, have caused the same to be so hereafter known as BRADSHAW Lane Idaho as show on the map attached hereto IN WITNESS WHEREOF: We have here day of December, A.D., 1980

W.B. Kremer

Acknowledgement

State of IDAHO

County of Custer

BE IT REMEMBERED: That on this 3 d. personally appeared before me, the undersigned for said State and County, the signers of

LOT 3

Bradshaw Lane
T13 N R19E
Sect 28

LOT 7

SEND

SECTION CORNER
ARTER SECTION CORNER
STEEL ROD - LOT CORNER
NO.
EASEMENT LINE FOR STREET
CH = 200 FEET

RECEIVED

NOV 08 1993

Department of Water Resources
Southern Region Office

November 4, 1993

PHYLLIS WAGNER
RR 1 BOX 227AA
SALMON ID 83467

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 72-07454

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order advancing the priority of the permit since the proof was received after the proof due date. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208)736-3033.

Sincerely,

Karen L. Gustafson
Senior Secretary

c: IDWR - Region

Enclosure

RECEIVED

STATE OF IDAHO

OCT 27 1993

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

For Office Use Only
Amt. of Fee \$ 50.00
Date 10-27-93
Receipt No. C028872
Received by JW

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 12-07454 Telephone No. (208) 756-3873

2. Name(s) of Permit Holder(s): Phyllis Rae Wagner

3. Post Office Address: Rt 1 Box 227AA Salmon, Id 83467

4. Source of Water: Salmon River

a. If ground water, well driller's name: N/A Date drilled: _____

b. Pump horsepower: 15 Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use:

Domestic _____ (No. of households)

Irrigation 2.8 (No. of acres)

Stockwater 5 cattle (No. and type of stock)
and
horses

Other _____

6. Total rate and/or volume for which proof is submitted 0.10 cfs _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? ___ Yes ☒ ___ No Installed? ___ Yes ___ No

OR

Flow Measurement Port: Required? ___ Yes ☒ ___ No Installed? ___ Yes ___ No

8. Fee Enclosed: \$ 50.00 (See License Examination Fee Schedule)

9. Person to contact to accompany the Department representative during the field examination:

Phyllis Wagner (208) 756-3873
Name Telephone No.

Rt 1 Box 227AA Salmon, Id 83467
Address

10. The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

Oct 25, 1993
Date

Phyllis Rae Wagner
Signature (and title if on behalf of a company or organization)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 72-07454)
IN THE NAME OF PHYLLIS RAE WAGNER) ORDER OF
REINSTATEMENT

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before September 1, 1993; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department notified the permit holder that the permit had lapsed for failure to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on October 27, 1993;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 72-07454 be REINSTATED with an advance in priority to February 22, 1990.

Dated this 4th day of November, 1993.


L. GLEN SAXTON

Chief, Water Allocation Bureau



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

RECEIVED

NOV 01 1993

Department of Water Resources
Southern Region Office

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 28, 1993

Phyllis Wagner
RR 1 Box 227AA
Salmon, ID 83467

Re: Permit No. 72-07453 and 72-07454

Dear Permit Holder:

The Department acknowledges receipt of the correspondence and assignment of permit form transferring ownership of the above referenced water right to you. The Department has modified our computer records to reflect this change in ownership.

If you have any questions or if I can be of any further assistance, please feel free to contact me.

Sincerely,

Karen L. Gustafson
Senior Secretary

C: IDWR - Regional Office

72-07454

State of Idaho
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMITS
 To change the ownership of two permits

I, C & D Enterprises Inc., hereby assign to Phyllis Wagner

of RR#1 Box 227AA Salmon Idaho 83467
(Permit Holder)
(Full Address)

All my right, title, and interest in and to Permit Nos. 72-07453 & 72-07454 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Permit No. N/A to appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.

N/A

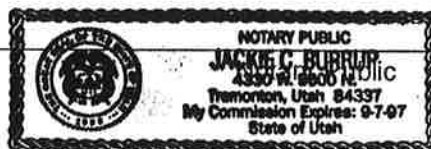
Made this 21st day of Oct, 19 93.

Paul S. Borup
 Representative/Title

State of Idaho)
)
 County of _____)
 SS

On this 21st day of October, 199 3, personally appeared before me the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

SEAL



Jackie C. Burrup
 Signature

My commission expires: 9-7-97

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLANDPermit
FILE 72-07453RE: STATUS OF CLAIMS72-07454DATE 10-13-93

NAME OF PARTY

PHYLLIS WAGNER756-3873SALMON

Jen called me and I returned her call @ 3:30pm.

She mentioned Bradshaw subdivision and that she owned lot 3 and had sent in the claim for it. She has just purchased lot 4 and wanted to know what to do to show her ownership.

I did not recall any adjudication claims by her or in that area. When I asked her for the Water right No. she gave me 72-07453 for lot 3 and 72-07454 for lot 4.

I queried these numbers and found 72-7453 has lapsed and is past the 60 day grace period for reinstatement. 72-07454 is in the process of lapsing and is in the 60 day grace period now. Ownership of both permits remain with C+D Enterprises.

I told her C+D Ent. must sign the permits over to her for ownership. Proof of Beneficial Use needs to be filed immediately for both rights.

I suggested she call us if she needs more forms and suggested she talk to Douglas Jones if she had further questions, since he sent the letter to C+D Enterprises.

NOTE: BCQI provided the lapse info on the two permits.

— AJQI shows no AJ claims for 'Wagner' in Basin 72.

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 72-07454

Proposed Priority: December 28, 1989 Maximum Diversion Rate: 0.10 CFS
This is to certify, that C & D ENTERPRISES INC.

74 S. 1ST E.

TREMONTON, UT 84337

has applied for a permit to appropriate water from:

SALMON RIVER

tributary of **SNAKE RIVER**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/01 to 11/01	0.08 CFS
STOCKWATER	01/01 to 12/31	0.02 CFS
	Totals	0.10 CFS

RECEIVED

AUG 17 1990

Department of Water Resources
Southern Region Office

LOCATION OF POINT(S) OF DIVERSION: LOT 8(NWSW), Sec. 28, Township 13N, Range 19E
CUSTER County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
13N	19E	28	LOT 8(NWSW)	2.8		2.8

Total number of acres irrigated: 2.8

PLACE OF USE: STOCKWATER, same as IRRIGATION use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **September 1, 1993**.
2. Subject to all prior water rights.
3. Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.
4. The rate of diversion of water for irrigation under this permit and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.
5. Place of use also known as Lot 4, Bradshaw Lane Subd.
6. Stockwater use is for 5 cattle and 5 horses.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this

13th day of August, 1990.

R. Keith Higginson

for R. Keith Higginson, Director

72-7454

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant C & D Enterprises Inc. Phone 801-257-3312
Post office address 74 So. 1st. East; Tremonton, Utah 84337
2. Source of water supply Salmon River which is a tributary of Snake River
3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of (SW) $\frac{1}{4}$, Govt. Lot 8
Sec. 28 Township 13N Range 19E B.M. Custer County; additional
points of diversion if any: _____
4. Water will be used for the following purposes: Irrigation and stockwater
Amount 0.08 ~~1.0756~~ for Irrigation purposes from April 1 to Nov 1 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.02 for Stockwater purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 1.0756 ~~1.0~~ and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. 5 to 7 HP pump to be installed with all legal and proper attachments to comply with state regulations.
 - b. Height of storage dam None feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? No
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. 5 Horses 5 Cows
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13N	19E	28	(Lot 4, Bradshaw Lane Sub.)				2.8				2.8				11/11/11/11/11/11/11/11				2.8

S is stockwater

* Corrected per mapped location,
 DRJ 5/2/90

Total number of acres to be irrigated 2.8

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

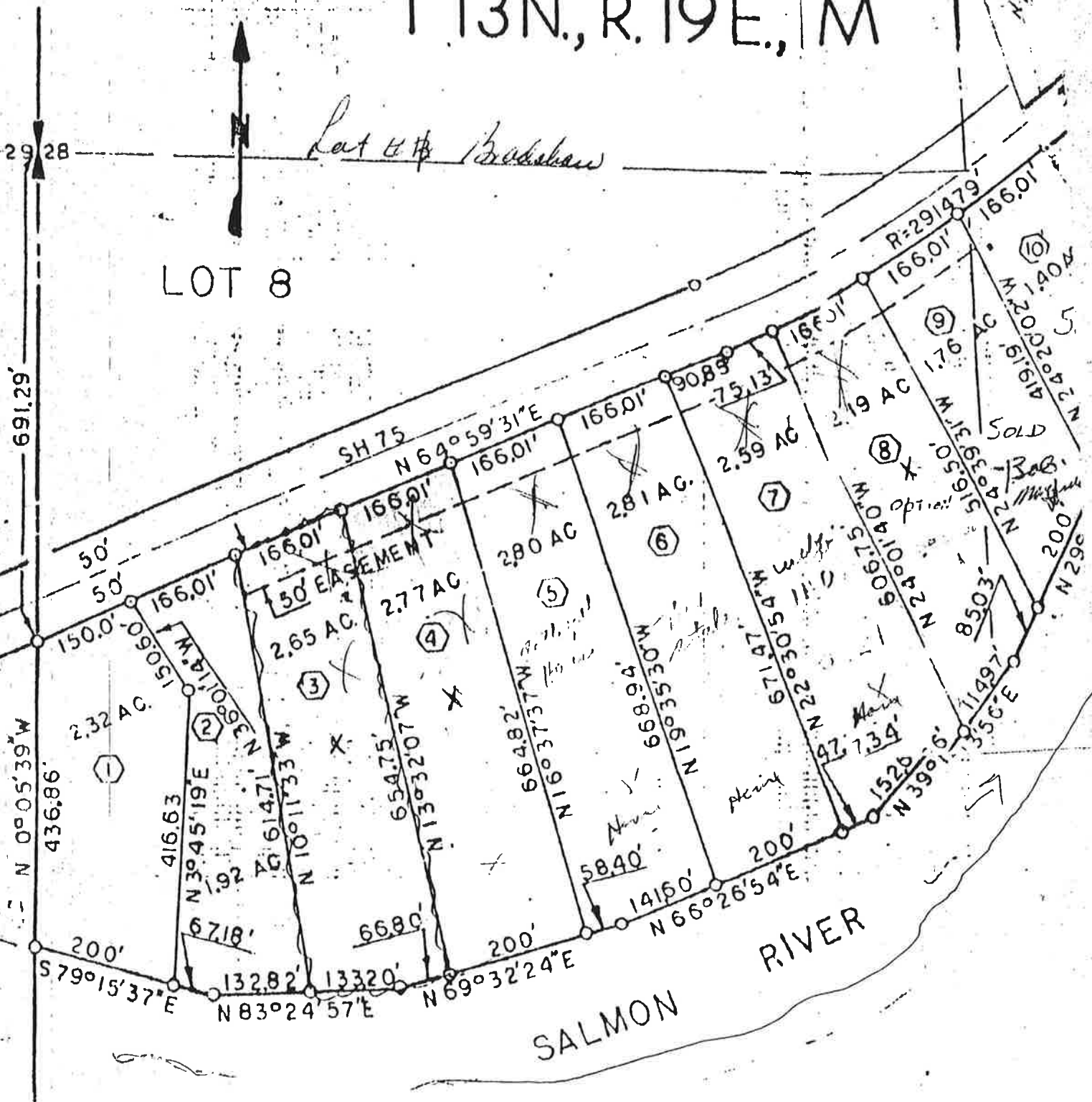
12. Remarks: This application replaces Lic. 72-2069 on this land.
Officers are Carl S. Borup (president) and Don J. Borup (vice-pres.), same
address as on application. This is a family business.
Land is Lot 4 of Bradshaw Lane Subdiv.

SECTION 28

T 13N., R. 19E., M

LOT 8

Lat 4th Bodshaw



BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Idaho No.

Lower White State Yellow Creek

Carl S. Barney
President (Applicant)

Received by J. Stanton Date 12-28-89 Time 10:50 am Preliminary check by DRS

Fee \$ 30.00 Received by JD # 5010772 Date 12-28-89

Publication prepared by M. Baldwin Date 1/5/90 Published in Challis Messenger

Publication approved M. Baldwin Date 2/5/90

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before

_____, 19 ____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

RECEIVED

State of Idaho
DEPARTMENT OF WATER RESOURCES

RECEIVED

DEC 03 1993

Department of Water Resources

DEC 03 1993

Department of Water Resources
Southern Region Office

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, Phyllis Rae Wagner, hereby assign to Mark & Ann C Hicks
(Permit Holder) Robert L. & Susan P Norton
of 100 W Biscayne Blvd #2402 Miami FL 33132
(Full Address)

All my right, title, and interest in and to Permit No. 72-07454
to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to
Permit No. 72-07454 to appropriate the public waters of the State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision,
point of diversion location, and the amount of water in cubic feet per second.

Made this 1st day of December, 1993.

Phyllis Rae Wagner
Permit Holder(s)

State of Idaho)

County of Lemhi)^{ss}

On this 1st day of December, 1993, personally appeared before me
the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

SEAL

Jaurie M Santee
Notary Public
Residing at Salmon, Id
Phyllis Rae Wagner
Signature

My commission expires: 6-19-1995

72-07454

72-07454

3172 IV NE
(BAYHORSE)

1.12 N.

F.13 N.

4920

25'

4922

4923

4925

