

WO 2834035

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL UTAH PROJECT
JORDAN AQUEDUCT, REACH 2

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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
ROCKY MOUNTAIN POWER
1407 W NORTH TEMPLE
SLC UT 84116-3171
BY: KAM, DEPUTY - WI 10 P.

EASEMENT ENCROACHMENT AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA
AND
ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP, AN OREGON CORPORATION

This Easement Encroachment Agreement made this 2nd day of February, 2006, by and between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, acting pursuant to the Act of June 17, 1902 (32 Stat. 388), and all acts amendatory thereof or supplementary thereto, and RIVERTON CITY, hereinafter referred to as the Landowner and ROCKY MOUNTAIN POWER, A DIVISION OF PACIFICORP, AN OREGON CORPORATION, hereinafter referred to as the Landowner's Permittee.

WITNESSETH THAT:

WHEREAS, the United States is the Grantee of that certain easement granted by various individuals, which easement is recorded in the official records of Salt Lake County, State of Utah, hereinafter referred to as the Easement of the United States; and

WHEREAS, the Landowner's Permittee has requested permission of the Landowner to cross the Landowner's property in such a manner as to encroach upon the Easement of the United States in a manner more particularly specified hereinafter; and

WHEREAS, the United States is willing to agree to said encroachment, upon conditions more particularly specified hereinafter;

NOW, THEREFORE, the United States hereby agrees to encroachment upon the Easement of the United States by the Landowner's Permittee only to the extent and for the purposes set forth below:

The Landowner's Permittee will install, operate, and maintain at three different locations a 72-kV buried powerline encased within a 4-inch conduit for electrical services associated with the Heritage Farms Phase 4 Subdivision, over the Jordan Aqueduct, Reach 2, at approximate Station 788+84, Station 785+16 and Station 782+18, Sections 28 and 29, Township 3 South, Range 1 West, Salt Lake Meridian as shown on Exhibits "B" and "C," attached hereto and by this reference made a part hereof. The Landowner's Permittee will maintain a minimum clearance of 18 inches from the top of the aqueduct to the bottom of the conduit.

1. The United States guidelines for agreeing to such encroachment upon the Easement of the United States are shown on Exhibit "A," attached hereto and by this reference made a part hereof.

2. The Landowner's Permittee or its Contractor shall perform all work within the encroachment area in accordance with the plans, drawings, guidelines, and maps attached hereto, and in a manner satisfactory to the United States, Jordan Valley Water Conservancy District, and the Metropolitan Water District of Salt Lake & Sandy, hereinafter called the Districts.

3. In consideration of the United States agreeing to encroachment upon the Easement of the United States by the Landowner's Permittee, the Landowner's Permittee hereby agrees to indemnify and hold the United States and the Districts, their agents, employees, and assigns, harmless from any and all claims whatsoever for personal injuries or damages to property when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of the encroachment upon the Easement of the United States, regardless of the cause of said injuries or damages; provided, however, that nothing in this agreement shall be construed as releasing the United States or the Districts from responsibility for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law.

4. In consideration of the United States agreeing to the Landowner's Permittee encroaching upon the Easement of the United States, the Landowner's Permittee agrees that the United States shall not be responsible for any damage caused to facilities, equipment, structures, or other property if damaged by reason of encroachment upon the Easement of the United States by the Landowner's Permittee. The Landowner's Permittee hereby releases the United States and the District, their officer, employees, agents, or assigns, from liability for any and all loss or damage of every description or kind whatsoever which may result to the Landowner's Permittee from the construction, operation, and maintenance of Project works upon said lands; provided that nothing in this Agreement shall be construed as releasing the United States or the District from liability for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law.

5. If the maintenance or repair of any or all structures and facilities of the United States located on the easement area should be made more expensive by reason of the existence of the encroachment improvements or works of Rocky Mountain Power, a division of PacifiCorp, an Oregon Corporation or its Contractor, Rocky Mountain Power, a division of PacifiCorp, an Oregon Corporation or its Contractor will promptly pay to the United States or the Jordan Valley Water Conservancy District, their agents or assigns, responsible for operation and maintenance of said structures or facilities, the full amount of such additional expense upon receipt of an itemized bill.

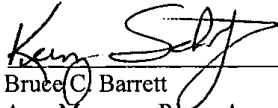
6. The Landowner's Permittee shall comply with all applicable laws, ordinances, rules, and regulations enacted or promulgated by any Federal, state, or local governmental body having jurisdiction over the encroachment.

7. The provisions of this agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto; provided, however, that no such heir, executor, administrator, personal representative, successor or assign of the Landowner's Permittee shall have the right to use, alter, or modify the encroachment in a manner which will increase the burden of the encroachment on the Easement of the United States.

8. This agreement makes no finding as to the right, title, or validity of the Landowner's Permittee or the encroaching interest, but merely defines the conditions under which the encroachment will not be deemed unreasonable by the United States.


IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

UNITED STATES OF AMERICA

By: 
Bruce C. Barrett
Area Manager, Provo Area Office

LANDOWNER
RIVERTON CITY

LANDOWNER'S PERMITTEE
ROCKY MOUNTAIN POWER
COMPANY, A DIVISION OF
PACIFICORP, AN OREGON
CORPORATION

By: 
Title: Meyer

By: 
Title: Property Agent

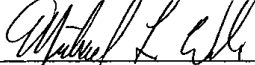
CONCUR:

JORDAN VALLEY WATER CONSERVANCY DISTRICT

By: 
Title: GENERAL MANAGER/GEO

CONCUR:

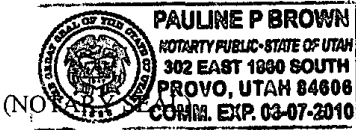
METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY

By: 
Title: General Manager

ACKNOWLEDGMENT OF THE UNITED STATES

State of UT)
) ss.
County of UT)

On this 8th day of February, 2006, personally appeared before me Kerry Schwartz, known to me to be the Acting Area Manager of the Provo Area Office, Bureau of Reclamation, Upper Colorado Region, United States Department of Interior, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of the United States of America pursuant to authority delegated to him.



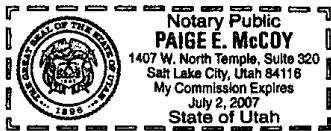
Pauline P. Brown
Notary Public

ACKNOWLEDGMENT OF ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP. AN OREGON CORPORATION

State of Utah
) ss.
County of Salt Lake

On this 2nd day of November, 2006, personally appeared before me Harold Dudley, known to me to be the Property Agent of Rocky Mountain Power, a division of PacifiCorp, an Oregon Corporation, the signer of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of Rocky Mountain Power, a division of PacifiCorp, an Oregon Corporation, pursuant to authority delegated to him/her.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



(NOTARY SEAL)

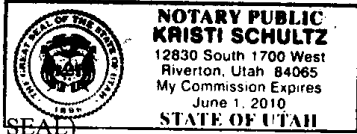
Paige E. McCoy
Notary Public

ACKNOWLEDGMENT OF RIVERTON CITY

State of)
) ss.
County of)

On this 7 day of December, 2006, personally appeared before me William Applegate, to be known to be the Mayor of Riverton City, the signer of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of Riverton City, pursuant to authority delegated to him/her.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



(NOTARY SEAL)

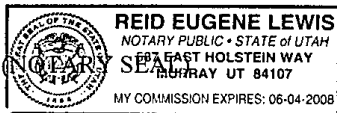
Kristi Schultz
Notary Public

ACKNOWLEDGMENT OF JORDAN VALLEY WATER CONSERVANCY DISTRICT

State of UT)
) ss.
County of SL)

On this 2^d day of JANUARY, 2006, personally appeared before me Reid P. Bay, to be known to be the CEO, General Manager of Jordan Valley Water Conservancy District, the signer of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of Jordan Valley Water Conservancy District, pursuant to authority delegated to him/her.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



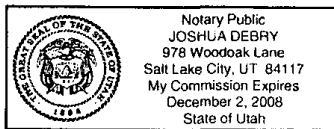
Reid Eugene Lewis
Notary Public

ACKNOWLEDGMENT OF METROPOLITAN WATER
DISTRICT OF SALT LAKE & SANDY

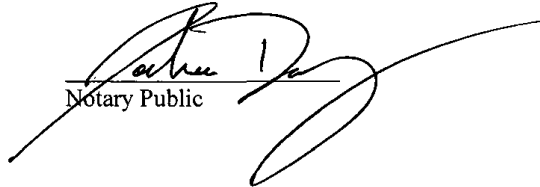
State of UT)
) ss.
County of SL)

On this 23 day of January, 2007, personally appeared before me Mike Wilson, known to be the General Manager, the undersigned officer, who acknowledged that himself/herself to be the Metropolitan Water District of Salt Lake & Sandy, a political subdivision of the State of Utah, and that she/he, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the organization by himself as General Manager.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



(NOTARY SEAL)



Notary Public

EXHIBIT "A"

ENCROACHMENT GUIDELINES FOR
JORDAN AQUEDUCT, REACH 2

PROTECTION CRITERIA

- A. Surface structures that generally will be allowed to be constructed within United States rights-of-way include asphalt roadways, with no utilities within roadway, non reinforced parking lots, curbs, gutters and sidewalks, walkways, driveways. However, where United States system pipe has specific maximum and minimum cover designation the special requirements for roadways, parking lots and driveways crossing over the pipe shall be obtained from the United States for the maximum allowable external loading or minimum cover. **HOWEVER, IT IS UNDERSTOOD THAT ALL SURFACE STRUCTURES SHALL BE ANALYZED AND CONSIDERED ON AN INDIVIDUAL BASIS.**
- B. Structures that may not be constructed in, on, or along United States rights-of-way include but are not limited to, permanent structures such as fences, retaining walls, block walls, buildings, garages, decks, carports, trailers, and swimming pools as designated by the United States.
- C. No trees or vines will be allowed within the rights-of-way of the United States.
- D. All temporary or permanent changes in ground surfaces within United States rights-of-way are to be considered to be encroaching structures and must be handled as such. Earthfills and cuts on adjacent property shall not encroach onto United States rights-of-way without prior approval by the United States.
- E. Existing gravity drainage of the United States rights-of-way must be maintained. No new concentration of surface or subsurface drainage may be directed onto or under the United States rights-of-way without adequate provision for removal of drainage water or adequate protection of the United States rights-of-way.
- F. Prior to construction of any structure that encroaches within United States rights-of-way, an excavation must be made to determine the location of existing United States facilities. The excavation must be made by or in the presence of water users or the United States.
- G. Any contractor or individual constructing improvements in, on, or along United States rights-of-way must limit his construction to the encroaching structure previously approved and construct the improvements strictly in accordance with plans or specifications.
- H. The ground surfaces within United States rights-of-way must be restored to a condition equal to that which existed before the encroachment work began or as shown on the approved plans or specifications.
- I. The owner of newly constructed facilities that encroach on United States rights-of-way shall notify the United States and/or the District upon completion of construction and shall provide the

District with one copy and the United States with two copies of as-built drawings showing actual improvements in, on, or along the rights-of-way.

J. Except in case of ordinary maintenance and emergency repairs, an owner of encroaching facilities shall give the District at least 10 days notice in writing before entering upon United States rights-of-way for the purpose of reconstructing, repairing, or removing the encroaching structure or performing any work on or in connection with the operation of the encroaching structure.

K. If unusual conditions are proposed for the encroaching structure or unusual field conditions within United States rights-of-way are encountered, the United States reserves the right to impose more stringent criteria than those prescribed herein.

L. All backfill material within United States rights-of-way shall be compacted to 90 percent of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within 6 inches of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed over the project works or within 18 inches horizontally of the projects works.

M. That the backfilling of any excavation or around any structure within the United States rights-of-way shall be compacted in layers not exceeding 6 inches thick to the following requirements: (1) cohesive soils to 90 percent maximum density specified by ASTM Part 19, D-698, method A; (2) noncohesive soils to 70 percent relative density specified by ANSI/ASTM Part 19, d-2049, par. 7.1.2, wet method.

N. Any nonmetallic encroaching structure below ground level shall be accompanied with a metallic strip within the United States rights-of-way.

O. Owners of encroaching facilities shall notify the United States at (801) 379-1000 and/or the District at (801) 565-8903 at least *forty-eight (48) hours in advance of commencing construction* to permit inspection by the United States and/or the District.

P. No use of United States lands or rights-of-way shall be permitted that involve the storage of hazardous material.

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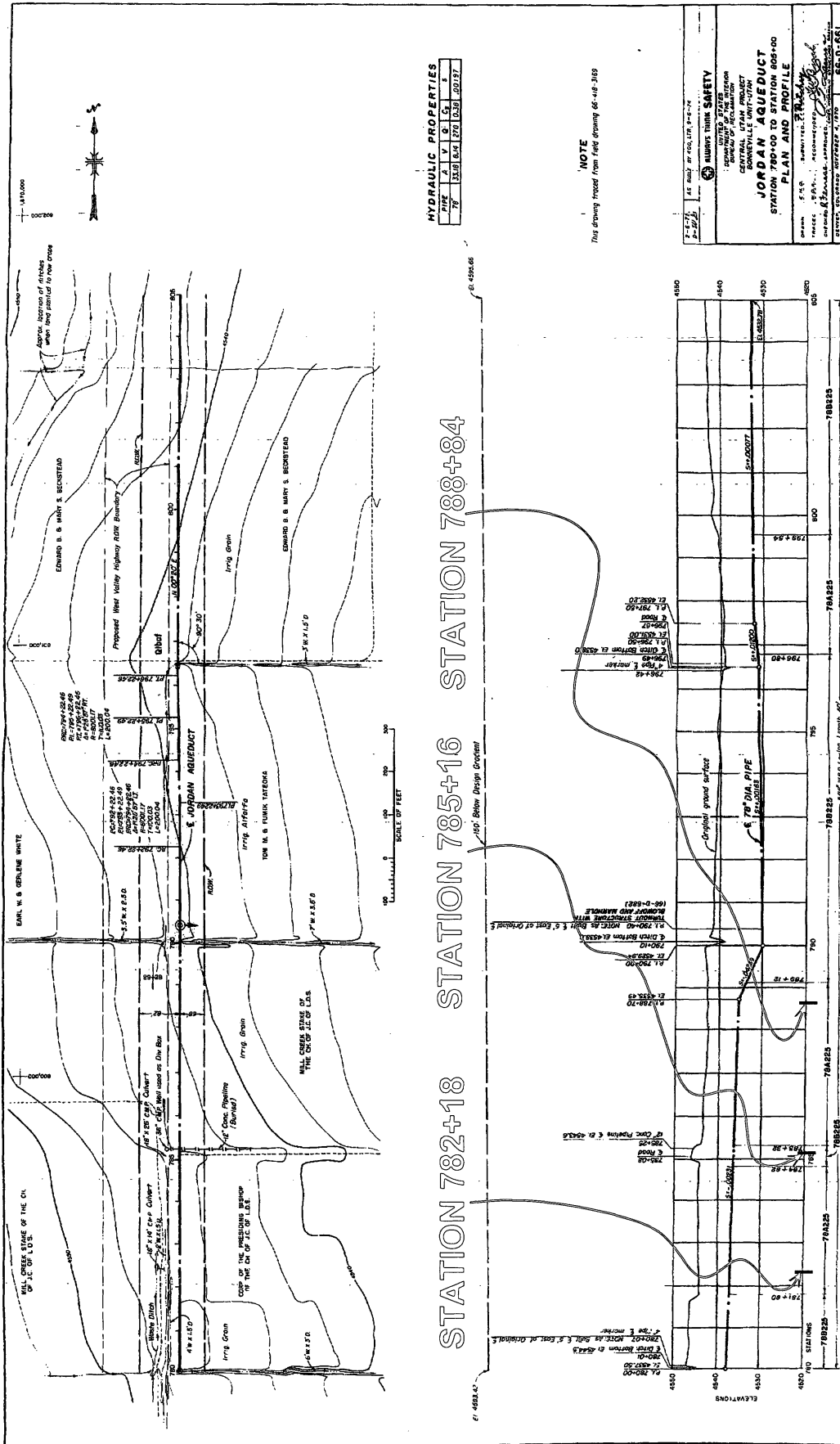


EXHIBIT B

NA

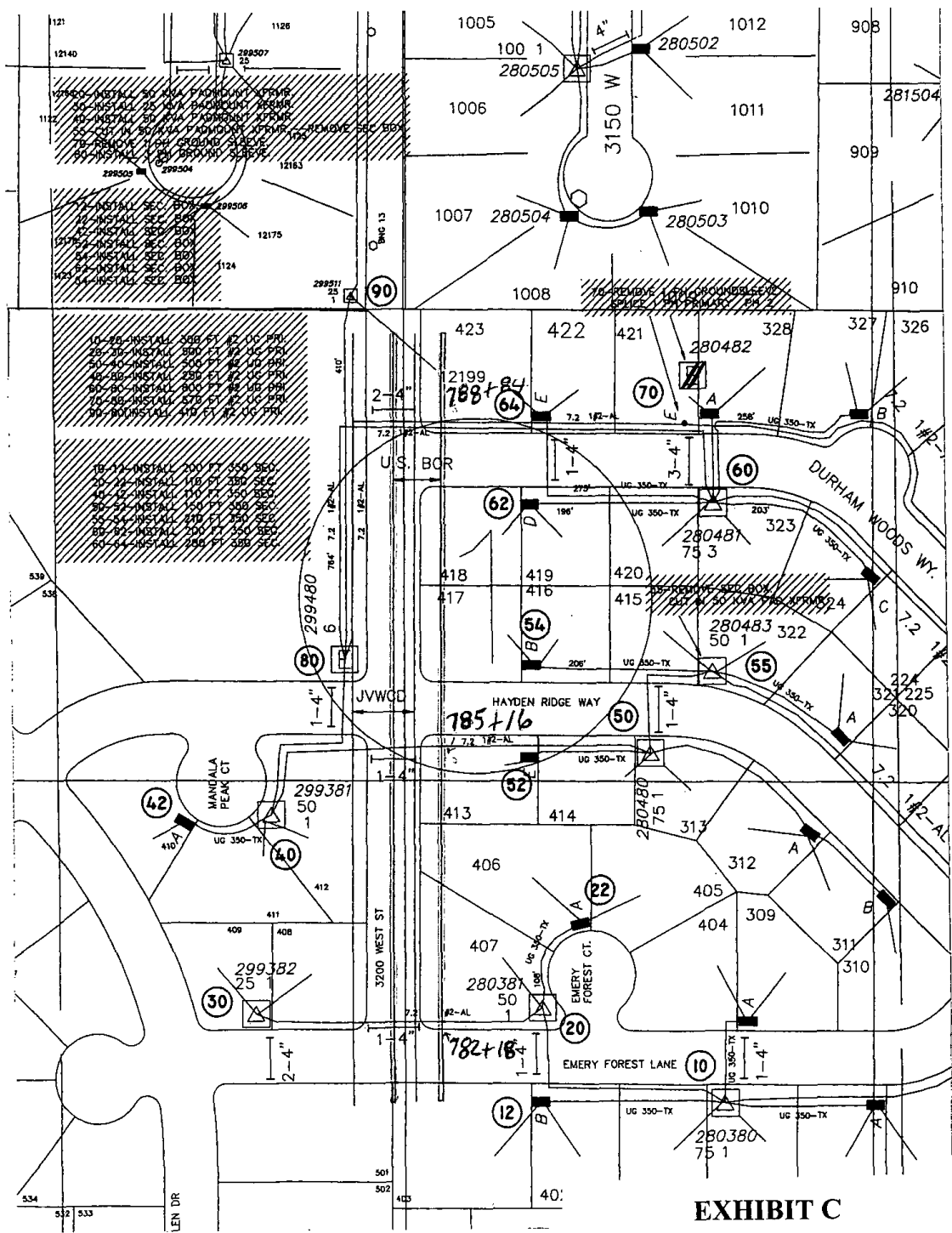


EXHIBIT C
BK 9430 PG 2598