

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

COLORADO RIVER STORAGE PROJECT
NAVAJO UNIT

CONTRACT AND GRANT OF EASEMENT

THIS CONTRACT AND GRANT OF EASEMENT, made this ____ day of _____, 20____, in pursuance of the Act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto, particularly Section 14 of the Reclamation Project Act of 1939 (53 Stat. 1187), between THE UNITED STATES OF AMERICA, hereinafter styled the United States, acting through the Bureau of Reclamation as is authorized therefore by the Secretary of the Interior, and Archuleta County, a county of the State of Colorado, hereinafter styled Grantee,

WITNESSETH, that:

WHEREAS, in 1960 the Bureau of Reclamation (Reclamation) and the Grantee entered into a contract for the relocation of segments of certain county roads necessitated by the construction of the Navajo Reservoir; and

WHEREAS, in said contract Grantee agreed to abandon the segments of county roads located within the reservoir site; and

WHEREAS, Reclamation agreed to acquire for or convey to the Grantee appropriate easements upon which to relocate those segments of county roads; and

WHEREAS, through an apparent oversight, Reclamation failed to convey an easement for a certain segment of relocated road now referred to as County Road 982 and now desires to correct that oversight and has determined that it is in the best interest of the public to do so;

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the sufficiency of which is hereby acknowledge, the parties hereto agree to the following:

1. The United States hereby grants to the Grantee, upon the terms hereinafter provided, an easement to operate, maintain, and repair an existing public road in the location described below:

A parcel of land situated in the EAST 1/2 OF SECTION 17 and the WEST 1/2 OF SECTION 16, Township 32 North, Range 5 West, New Mexico Principal Meridian, Archuleta County, Colorado, and more particularly described as follows:

Beginning at the SOUTHEAST CORNER OF SAID SECTION 17, whence the East 1/4 corner of said Section 17 bears N01°09'14"E and all other bearings are relative thereto; thence N01°09'14"E, a distance of 2,667.92 feet to the East 1/4 Corner of said Section 17; thence N01°07'38"E along the east line of said Section

17 a distance of 303.81 feet to the point of curve of a non-tangent curve to the left, of which the radius point lies S73°49'12"W, a radial distance of 563.33 feet and the long chord bears N36°37'04"W a distance of 393.41 feet; thence northwesterly along the arc, through a central angle of 40°52'30", a distance of 401.88 feet; thence N57°03'18"W, a distance of 441.19 feet; thence N32°56'42"E, a distance of 68.00 feet to a point two feet, more or less, southwesterly of an existing fence; thence parallel to and approximately two feet westerly of said existing fence the following nine courses and distances:

1. S58°32'56"E, a distance of 447.83 feet;
2. S46°46'14"E, a distance of 162.98 feet;
3. S32°56'21"E, a distance of 186.81 feet;
4. S19°56'34"E, a distance of 105.40 feet;
5. S12°03'36"E, a distance of 90.08 feet;
6. S03°20'37"E, a distance of 123.09 feet;
7. S01°17'54"W, a distance of 1,822.00 feet;
8. S01°56'07"W, a distance of 574.51 feet;
9. S03°46'29"W, a distance of 128.62 feet;

thence S04°31'20"W, a distance of 60.57 feet; thence S13°11'39"W, a distance of 114.44 feet; thence S09°49'01"W, a distance of 77.54 feet to the south line of said Section 16; thence N89°20'18"W along said south line a distance of 42.83 feet to the POINT OF BEGINNING.

Containing 7.79 acres, more or less.

2. The United States hereby waives compensation for the granting of this easement pursuant to Section 429.26(a)(3) and 429.26(a)(7) as stipulated in an Administrative Determination to Waive Fees, attached hereto as Exhibit A.

3. The Grantee will operate and maintain said road at its sole cost and expense.

4. The Grantee shall not use the above described road in such a manner as to cause damage to, or obstruction of, structures and lands owned by the United States, and shall not impede the United States, acting through Reclamation, its officers, agents, employees, and assigns in the performance of their duties.

5. This Contract and Grant of Easement and all rights hereunder shall be held by the Grantee at all times subject to the following provisions:

(a). Jurisdiction and supervision by the United States over the concerned lands is not surrendered or subordinated by issuance of this Contract and Grant of Easement. The United States reserves the right to access its adjoining lands at any point along, over, and across the easement area granted.

(b). The Grantee shall have the right to close the road to the public in a reasonable manner as the Grantee deems necessary in accordance with its responsibilities as a governmental agency to ensure the health and safety of the public including the protection of wildlife and wildlife resources.

(c). Nothing in this Contract and Grant of Easement is or shall be construed to be a waiver by the Grantee of the provisions of the Colorado Governmental Immunity Act (C.R.S. § 24-10-101 et seq.)

(d). The United States reserves the right to issue additional licenses, easements, rights-of-ways, or permits for compatible uses of the lands involved in this Contract and Grant of Easement; provided such use does not unreasonably interfere with the Grantee's right to operate and maintain the road for public purposes.

6. In the event the Grantee violates any terms or conditions of this Contract and Grant of Easement or fails to cure or initiate appropriate steps to cure such violations within Sixty (60) days of receiving written notice by the United States of any such violation, the United States shall file a notice of termination, terminating the Contract and Grant of Easement upon recording the notice of termination in the local county recorder's office.

7. Each provision of this Contract and Grant of Easement shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this use authorization shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the use authorization as a whole.

8. Hold Harmless

(a). The United States its officers, agents, employees, and assigns does not assume any liability resulting from the granting of this easement or the exercise thereof.

(b). To the extent permitted by law the Grantee hereby agrees to indemnify and hold harmless the United States, its employees, agents and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Grantee's activities under this Contract and Grant of Easement.

(c). To the extent permitted by law the Grantee further agrees that the United States, its officers, agents, employees, and assigns, shall not be held liable for any damage to Grantee's improvements or works by reason of the exercise of the rights herein reserved; nor shall anything contained in this paragraph be construed as in any manner limiting other reservations in favor of the United States contained in this Contract and Grant of Easement.

products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

(b). The Grantee shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported, stored, or disposed of on or in Federal lands, waters or facilities.

(c). "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

(d). Upon discovery of any event which may or does result in contamination or pollution of Federal lands, waters or facilities, the Grantee shall initiate any necessary emergency measures to protect health, safety and the environment and shall report such discovery and full details of the actions taken to Reclamation. Reporting may be within a reasonable time period. A reasonable time period means within twenty-four (24) hours of the time of discovery if it is an emergency or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to reduce or avoid endangering public health and safety or the environment.

(e). Violation of any of the provisions of this Article, as determined by Reclamation, may constitute grounds for termination of this contract. Such violations require immediate corrective action by the Grantee and shall make the Grantee liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(f). The Grantee agrees to include the provisions contained in paragraphs (a) through (e) of this Article in any subcontract or third party contract it may enter into pursuant to this contract.

(g). Reclamation agrees to provide information necessary for the Grantee using reasonable diligence, to comply with the provisions of this Article.

16. Contingent upon appropriation or allotment of funds.

The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Grantee from any obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

17. The terms of this Contract and Grant of Easement will survive the conveyance provided herein.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

UNITED STATES OF AMERICA

Larry Walkoviak
Regional Director
Bureau of Reclamation
Upper Colorado Region

ACKNOWLEDGEMENT

State of }
 } ss.
County of }

On the _____ day of _____, 20____, personally appeared before me _____, known to me to be the Regional Director, Upper Colorado Regional Office, the signer of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of the United States.

(NOTARY SEAL)

Notary Public in and for the State
of _____
Residing at _____
My commission expires: _____

ACCEPTANCE

Grantee accepts this Contract and Grant of Easement on the terms and conditions stated therein.

ARCHULETA COUNTY, COLORADO

By: _____

Title: _____

ACKNOWLEDGEMENT

State of Colorado }
 } ss.
County of Archuleta }

On the _____ day of _____, 20____, personally appeared before me
_____, known to me to be the _____
of the County of Archuleta, the signer of the above instrument, who duly acknowledged to me
that he/she executed the same on behalf of the County of Archuleta, Colorado.

(NOTARY SEAL)

Notary Public in and for the State
of Colorado
Residing at _____
My commission expires: _____

(d). To the extent permitted by law the Grantee hereby releases the United States, its officers, employees, agents, or assigns, from liability for any and all loss or damage of every description or kind whatsoever, which may result to the Grantee as their agents from the construction, operation, and maintenance of Project Works upon said lands, provided that nothing in this Contract and Grant of Easement shall be construed as releasing the United States from liability for its own negligence resulting from the exercise of the rights herein granted to the extent that the United States is determined to be liable pursuant to the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 982 (28 U.S.C. § 1346(b), 2671 et seq.) or other applicable law.

9. Any activity deemed to be illegal on Federal lands will be cause for immediate termination of this Contract and Grant of Easement.

10. The Grantee shall accept said easement on the terms and restrictions herein expressed, and on execution and delivery of this Contract and Grant of Easement and approval by the proper officials of the United States.

11. This Contract and Grant of Easement shall become effective immediately on its execution by Reclamation acting under the authority of the Secretary of the Interior, and shall inure to the benefit of and be binding upon the heirs, executors, administrators, and assigns of the Grantee, and the assigns of the United States.

12. The Grantee warrants that the Grantee has not employed any person to solicit or secure this Contract and Grant of Easement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the United States the right to annul the Contract and Grant of Easement, or in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business with others than the United States.

13. No member of or delegate to Congress or resident Commissioner shall be admitted to any share or part of this Contract and Grant of Easement or to any benefit that may arise here from, but this restriction shall not be construed to extend to this Contract if made with a corporation or company for its general benefit.

14. In the event Grantee vacates or abandons said road, this Contract and Grant of Easement shall become null and void, and said road shall be released back to the United States.

15. Hazardous Materials

(a). The Grantee may not allow contamination or pollution of Federal lands, waters or facilities and for which the Grantee has the responsibility for care, operation, and maintenance by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include but are not limited to hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum

