

180 ROMAN CATHOLIC CHURCH EASEMENT JORNADO LATERAL (109)

0023-0076-0004-00

9-(4) Texas

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Rio Grande Project

Contract and Grant of Right of Way Easement

THIS CONTRACT, made this 7th day of February, 1957, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including particularly the Reclamation Project Act of 1939 (53 Stat. 1187), between THE UNITED STATES OF AMERICA, and its assigns, hereinafter styled the United States, and the ROMAN CATHOLIC CHURCH, acting by and through Sidney M. Metzger, Bishop of the Diocese of El Paso, its successors and assigns, hereinafter styled the Grantor.

WITNESSETH THAT:

2. For and in consideration of the sum of \$1.00, the receipt whereof is hereby acknowledged, the Grantor does hereby grant and convey to the United States, and its assigns, an exclusive right, privilege, and easement to construct, replace, operate and maintain ditches, canals, laterals, drains, aqueducts, water conduits, fences, bridges, roads, telephone and telegraph lines, and any other structures or facilities the United States may deem necessary or desirable for the construction, operation, and maintenance of the Rio Grande Project, and the exclusive right, privilege, and easement to remove from or place on earth and rock, with the right of ingress and egress for the purpose of carrying out the easement granted, in and upon that certain tract or parcel of land situate, lying, and being in Tracts 22D and 22H, Block 42 of the Yalata Grant, according to the survey thereof approved by the Commissioners' Court of the County of El Paso on February 8, 1932, in the County of El Paso, State of Texas, and more particularly described in Schedule A attached hereto and made a part hereof.

3. Any portion of the above-described tract of land not fenced by the United States may be used by the Grantor at its risk, for any purposes which will not, in the opinion of the Project Manager, Rio Grande Project, interfere with the easement herein granted to the United States, and in connection with any such use by the Grantor, it will hold the United States harmless from all liability for damage and claims therefor, arising directly or indirectly from such use, and will reimburse the United States for any damages, resulting from its use thereof, to structures of the United States located on said right of way.

4. This grant of easement is subject to existing rights or easements, if any, in the above-described land for railroads, pipe lines, power lines, telephone and telegraph lines, roads, highways, ditches or

canals, and any existing reservation of mineral rights, and the following listed leases:

None.

5. This grant of easement is also subject to the following described mortgages, deeds of trust, or other liens and encumbrances and no others: Vendors lien in the sum of \$131,000 in favor of Isaac Alderete, Jr. secured by Deed of Trust from Rev. S. M. Metzger, Bishop of El Paso, to R. H. Feuille, Trustee, dated April 14, 1956 and filed for record April 14, 1956 in Book 1283 at page 158 in the records of El Paso County, Texas.

6. Grantor does hereby covenant that at the delivery of this easement, it is lawfully seized, in its own right, of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the tract of land covered by this easement, free and clear of encumbrances or liens except as listed herein, and will warrant and forever defend the same unto the United States against said Grantor and all and every person or persons whomsoever lawfully claiming or to claim the same.

7. It is expressly stipulated that upon permanent abandonment of this easement, as evidenced by a written notice to that effect from the Secretary of the Interior to the occupant, or to the grantor, its successors or assigns, the right, privilege and easement granted herein shall terminate and the interest of the United States hereunder shall revert to the Grantor.

8. Grantor agrees to construct or reconstruct, at its own expense and in accordance with plans and specifications approved by the Project Manager, Rio Grande Project, that portion of the Jornada Lateral, as hereinafter described, but the Grantor assumes no responsibility for future operation and maintenance of the relocated lateral.

9. The United States will abandon the portion of the existing Jornada Lateral in Tracts 22A, 22B and 22H, Block 42, Yaleta Grant, El Paso County, Texas, made unnecessary by the herein authorized realignment, and permit reconstruction from the present location at the east right of way of the Yaleta-Zaragosa Road southeasterly on a straight alignment to a juncture with the present lateral, a distance of approximately 600 feet. The said abandonment shall not be effected until the

United States has satisfied itself that the Grantor herein has a good and marketable title to the lands of the relocated right of way, free and clear of any liens or encumbrances, except those herein specifically mentioned. In the event said Grantor does not have a good and marketable title, or if liens or encumbrances other than those herein specifically waived by the United States by the provisions hereof, are found to exist, the United States may, at its option, require the Grantor to furnish satisfactory title or may itself obtain the instruments necessary to provide same, and may recover the cost of obtaining the same from the Grantor.

10. The United States shall not be responsible or liable for loss, damage, or injury occurring during construction by the Grantor of the relocated section of the Jornada Lateral. Following completion and acceptance of this section by the United States, the Grantor shall have no further responsibility for loss, damage, or injury resulting from relocation of the section.

11. In connection with the performance of work under this license, the Grantor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Project Manager setting forth the provisions of the non-discrimination clause. The Grantor further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

12. Grantor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial agencies maintained by the Grantor for the purpose of securing business. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or in its discretion to require the Grantor to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

13. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed the day and year first above written.

THE UNITED STATES OF AMERICA

By /s/ T. H. Moser
Acting Project Manager

ROMAN CATHOLIC CHURCH

By /s/ Sidney M. Metzger
Sidney M. Metzger
Bishop of the Diocese of El Paso

STATE OF TEXAS

COUNTY OF EL PASO

Before me, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Sidney M. Metzger, Bishop of the Roman Catholic Church, Diocese of El Paso, known to me to be the person and officer whose name is subscribed to the foregoing contract and grant of right of way easement and acknowledged to me that the same was the act of the said Sidney M. Metzger, Bishop of the Roman Catholic Church, Diocese of El Paso, and that he executed the same as the act of such diocese for the purposes and consideration therein expressed, and in the capacity stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 7
day of Feb., 1957.

/s/ Francis S. Ainsa

Notary Public in and for El Paso
County, Texas

(SEAL)

My commission expires 6-1-57

Schedule A

For That Portion of Tract 22-H

BEGINNING at a point on the easterly right-of-way line of the Ysleta-Zaragoza Road and the westerly boundary line of tract twenty-two-H (22-H), Block forty-two (42), Ysleta Grant, El Paso County, Texas, said point being located north twenty-five (25) degrees, no (00) minutes east seven hundred eighty and eighty-four hundredths (780.84) feet from the most southerly corner of tract twenty-two-H (22-H); thence north twenty-five (25) degrees, no (00) minutes east forty-two and eighty-six hundredths (42.86) feet to a point for the most northerly corner of tract twenty-two-H (22-H); thence south sixty-eight (68) degrees, eighteen (18) minutes east one hundred twenty-four and six hundredths (124.06) feet to an iron rod; thence south sixty-five (65) degrees, no (00) minutes east four hundred fifty-eight and forty-four hundredths (458.44) feet to a point on the west boundary line of the Jornada Lateral; thence south eight (8) degrees, five (05) minutes west fifty-two and twenty-six hundredths (52.26) feet along the aforesaid lateral to a point for the most southeasterly corner of this parcel being described; thence north sixty-five (65) degrees, no (00) minutes west five hundred ninety-seven and forty-nine hundredths (597.49) feet to the place of beginning containing sixty-seven hundredths (0.67) acre, more or less.

For That Portion of Tract 22-D

BEGINNING at the southwest corner of tract twenty-two-D (22-D), block forty-two (42), Ysleta Grant, El Paso County, Texas, which point is identical with the most northerly corner of tract twenty-two-H (22-H); thence north twenty-five (25) degrees, no (00) minutes east seven and fourteen hundredths (7.14) feet to an iron rod for the most northerly corner of this parcel being described; thence south sixty-five (65) degrees, no (00) minutes east one hundred twenty-three and eighty-five hundredths (123.85) feet to a point; thence north sixty-eight (68) degrees, eighteen (18) minutes west one hundred twenty-four and six hundredths (124.06) feet to the place of beginning, containing one-hundredth (0.01) acre, more or less.

CERTIFICATE OF INSPECTION AND POSSESSION

I, William L. Brady, Chief
Ysleta Irrigation Field Branch, Rio Grande Project, Bureau of
Reclamation, Department of the Interior, hereby certify that on the
8th day of February 1957, I made a personal examination
and inspection of that certain tract or parcel of land situated in
the County of El Paso, State of Texas, and particularly described in
SCHEDULE A hereof and containing 0.68 acre more or less, proposed
to be acquired by the United States of America in connection with the
relocation of the Jornada Lateral, a facility of the Rio Grande
Project, from the Roman Catholic Church, acting by and through
Sidney M. Metzger, Bishop of the Diocese of El Paso.

1. That I am fully informed as to the boundaries, lines and corners of said tract; that I found no evidence of any work or labor having been performed or any materials having been furnished in connection with the making of any repairs or improvements on said land; and that I made a careful inquiry of the above-named vendor, and of the occupants of said land, and ascertained that nothing had been done on or about said premises within the past twelve months that would entitle any person to a lien upon said premises for work or labor performed or materials furnished.

2. That I also made inquiry of the above-named vendor, and of all occupants of said land, as to his rights of possession and the rights of possession of any person or persons known to him and neither found any evidence nor obtained any information showing or tending to show that any person had any rights of possession or other interest in said premises adverse to the rights of the above-named vendor or of the United States of America.

3. That I was informed by the above-named vendor, and by all other occupants, that to the best of their knowledge and belief there is no outstanding unrecorded deed, mortgage, lease, contract, or other instrument adversely affecting the title to said premises.

4. That to the best of my knowledge and belief after actual and diligent inquiry and physical inspection of said premises there is no evidence whatever of any vested or accrued water rights for mining, agricultural, manufacturing or other purposes, nor any ditches or canals constructed by or being used thereon under the authority of the United States, except the Jornada Lateral, an irrigation facility owned, operated and maintained by the United States, nor any exploration or operations whatever for the development of coal, oil, gas, or other minerals on said lands; and that there are no possessory rights now

in existence owned or being actively exercised by any third party under any reservation contained in any patent or patents heretofore issued by the United States for said land.

5. That to the best of my knowledge and belief based upon actual and diligent inquiry made, there is no outstanding right whatsoever in any person to the possession of said premises nor any outstanding right, title, interest, lien or estate, existing or being asserted in or to said premises except such as are disclosed and evidenced by the public records.

6. That the premises are wholly unoccupied and vacant except for the occupancy of the United States of America.

William L. Brady

Dated this 8th

day of Feb., 195 7.

Approved:

W. F. Resch

W. F. Resch, Project Manager

CERTIFICATE OF TITLE

This is to certify that I, Gertrude Attaway,
Engr. Draftsman, Rio Grande Project, Bureau of Reclamation,
Department of the Interior, made a thorough search of the title to
the property described in Schedule A hereof, beginning with the
2nd day of January 19 56, and that title
to said property was indefeasibly vested in fee simple of record in
the Roman Catholic Church, acting by and through Sidney M. Metzger,
Bishop of the Diocese of El Paso, as of 4th day of April
19 56 for Tract 22 H, Block 42, and as of 20th day of November
19 56, for Tract 22 D, Block 42, both in Ysleta Grant, El Paso
County, Texas, free and clear of all encumbrances, defects, interests,
and all other matters whatsoever, either of record or otherwise known
to me, impairing or adversely effecting the title to said property
except as shown herein.

The before-mentioned encumbrances, defects, interests,
and other matters are listed below:

Vendors lien in the sum of \$131,000 in favor of Isaac Alderete, Jr.
secured by Deed of Trust from Rev. S. M. Metzger, Bishop of El Paso,
to R. H. Feuille, Trustee, dated April 14, 1956 and filed for record
April 14, 1956 in Book 1283 at page 158 in the records of El Paso County,
Texas.

El Paso County Water Improvement District No. 1 charges unpaid, for 1956,
delinquent County and State Taxes for 1956 unpaid, delinquent City taxes
for 1956 unpaid.

Gertrude Attaway

Gertrude Attaway
February 11, 1957

CERTIFICATE OF RECORD

The State of Texas)
County of El Paso) I, Raymond L. Telles, Jr., County Clerk in
and for said County, do hereby certify that the foregoing instrument
of writing with its certificate of authentication, was filed for
record in my office on the 14th day of February, A.D. 1957, at 1:53
o'clock, PM, and duly recorded the 21 day of February A.D. 1957
at 9 o'clock, AM, in the Deed Records of said County, in volume 1329
on page 233.

Witness my hand and the seal of the County Court of said
county office in El Paso, Texas, the day and year last above written.

Raymond L. Telles, Jr., County Clerk

By /s/ Rosemary T. Fryer - deputy

SEAL