HYDROLOGY L10/D4 4 PLANS

L10/D4

4 Plans

CITY OF ALBUQUERQUE, NEW MEXICO
CITY ENGINEER'S OFFICE

MEMORANDUM - July 23, 1975

TO: Mr. Tom McMahon, Assistant City Attorney
FROM: V. M. Kimmick, City Engineer
SUBJECT: EMELIA S. GONZALES PROPERTY

In response to your verbal request, in order to answer the Ashby, Rose and Sholer letter of July 7, 1975, I will outline the facts in this matter.

1. The ponding area was dedicated to the City in the Skyview West plat as a part of the overall drainage plan for the area and at the request of AMAFCA. It is within the statute power granted to AMAFCA to create this pond.

2. Due to the heavy rains frequently damaging the area of Arenal and Coors SW, a meeting with AMAFCA, the County and the City was held to decide on emergency measures to protect the area. Among the 4 major items designed by William Matotan and Associates for AMAFCA was a temporary ditch within the road right-of-way beginning at 78th. Street at Volcano Road. On the plans given us by AMAFCA, the ditch began at the intersection of Volcano Road and 78th. Street. I would suggest that Mr. Paul, Street Maintenance Engineer, be contacted regarding the work on Lots 4 and 5 as our plan showed no work there.

3. There was public protest of the action from many lot owners in the area, and a meeting between AMAFCA and the residents was held. Most complaints were denial of access to their properties. The City agreed by letter to restore this ditch to original contours should significant development occur.

4. The Street Maintenance Engineer continued to have trouble with the ditch and in a unilateral action the City informed AMAFCA we would be restoring the ditch to its original condition.

The remaining 3 projects are all operating satisfactorily and in recent rains have protected Arenal and Coors well. Looking back, the project in this area was of questionable benefit, especially being constructed within a roadway right-of-way. I feel we made a mistake in agreeing to its construction.

The matter of crossing private property is unknown to me, but certainly a matter requiring an apology.

VMK/fs

cc: Mr. E. F. Hansch, Director of Public Works
Mr. George Paul, Street Maintenance Engineer
Mr. Kleston Laws, Assistant City Engineer-Hydrology

ASHBY, ROSE AND SHOLER, P. A.

ROBERT J. TORVESTAD
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818 MANZANO N.E.
ALBUQUERQUE, NEW MEXICO 87110

PHILIP R. ASHBY
STEWART ROSE III
BILL J. SHOLER
MARTIN S. PASKINO

TELEPHONE
(505) 262-1671

JUL 9 1975
MAYOR'S OFFICE

The Honorable Harry Kinney
Mayor of Albuquerque
P. O. Box 1293
Albuquerque, New Mexico 87103

Dear Mayor Kinney:

I represent Mrs. Lucille S. Gonzales and her son, Hilario Gonzales, Jr. Mr. Gonzales is the owner of the remaining portions of Lots 1 through 5 of the H. S. Gonzales Subdivision of a Portion of Tract 50, Unit 6, Town of Atrisco Grant as per plat recorded on June 21, 1951, in the records of the County Clerk of Bernalillo County, New Mexico, and Mrs. Gonzales is the owner of Lots 7 through 10 as shown on the aforesaid plat.

The City of Albuquerque has constructed a bank or dam across Lots 4 and 5 owned by Mr. Gonzales. This work was done pursuant to a designed plat prepared by AMAFCA, but not in conformity with the provisions thereof and was done without consultation with my clients. The action of the city was in the nature of a trespass and we require that the same be removed within 10 days of this letter.

The City of Albuquerque has also been fit to construct a pond or depression for the collection of water adjacent to Lots 9 and 10 owned by Mrs. Gonzales. The depression is in the area, and probably upon the right-of-way of Volcano Road. No formal action was taken by any city body or department prior to the commencement of this work, and the construction amounts to a vacation and closing of the right-of-way of Volcano Road, without any colorable attempt to comply with the restrictions imposed upon private citizens as well as governmental bodies in this connection. Furthermore, the maintenance of this pond creates a public nuisance and is a gross misuse of the police power of the municipality.

I find it personally disappointing to have to write a letter in this manner. My clients have given me a list of the

numerous City, County, and Flood Control personnel with whom they have had contact over this matter, and from whom they have received no satisfaction whatsoever. It was only after a personal call to Mr. Robert of the Flood Control Authority, that I ascertained where the blame lies. I am very sorry that no one saw fit to consult with my clients before taking their property. I am concerned that no one would take the responsibility for the same, and I am deeply disappointed that no one has even seen fit to tender my clients an apology.

Although, the creation of the pond next to my clients' property might conceivably have some supportable legality, the ditch across Mr. Gonzales's property certainly has not. Therefore, my clients will not consider any suggestion for the maintenance of the ditch or of compensation for the taking, until responsibility has been assumed by the proper authorities and an appropriate apology tendered.

Yours very truly,

/s/ Stewart Rose

STEWART ROSE

SR:rmr

cc: Frank Kleinhenz
Ervin Hensch
Mrs. Emilia Gonzales
Mr. Hilario Gonzales, Jr.

City of Albuquerque
P.O. BOX 1293 ALBUQUERQUE, NEW MEXICO 87103

MAYOR
Harry E. Kinney

CHIEF
ADMINISTRATIVE OFFICER
Frank A. Kleinhenz

Copy for Sleeter, MS

RECEIVED
JUN 06 1975

June 6, 1975

Mr. John Robert, Executive Engineer
Albuquerque Metropolitan Arroyo Flood
Control Authority
2112 Girard Blvd. N.E.
Albuquerque, N.M. 87106

Dear Mr. Robert:

The City intends to eliminate the temporary diversion channel along 75th and 78th Streets south of Bridge Blvd.and restore the flows to their historic outfall.

This action is based on objections of property owners affected and observations by our staff of the operation of the temporary dike during recent rains on the West Mesa.

The City will begin the work early next week.

Very truly yours,

E.F. Hensch

E.F. Hensch
Director of Public Works

EFH/da

cc: Mr. Frank Kleinhenz
Mr. V.M. Kimmick
Mr. George Paul

Public Works Department

Director — Erwin F. Hensch, P. E. 766-7467
Engineering 766-7441 — V. M. Kimmick, P. E.
Ass't. Director — Harold R. Orr, Jr. P. E.
Liquid Waste 766-7535 — R. P. Lowe, P. E.

City of Albuquerque

ALBUQUERQUE NEW MEXICO 1706

March 27, 1975

RECEIVED
APR 01 1975
CITY ENGINEER

Mr. Michael P. McMullan
209 Palomas Drive NE
Suite C
Albuquerque, N. M. 87108

Subject: FUTURE PLANS FOR TEMPORARY DITCHES ON 75TH AND 78TH STREETS SW

Dear Mr. McMullan:

This is in reference to the conversations which have transpired between you and members of my staff pertaining to the temporary ditches on 75th and 78th Streets SW. These ditches were located and constructed as a result of a joint agreement between the City and the County after a flooding incident last fall. The plan for the ditches was prepared by the Albuquerque Metropolitan Arroyo Flood Control Authority as an interim solution intended to contain a two-year storm frequency.

The ultimate plan for this area has been prepared by AMAFCA and is scheduled for final approval by the AMAFCA Board in April of this year. It will then be forwarded to the City for adoption. The permanent construction, in conformance with the plan, will transpire some time in the future dependent upon the availability of AMAFCA flood control funds.

Hopefully, this letter will serve as assurance that the present ditches are, in fact, temporary pending the availability of funds for a permanent solution; secondly, that should significant developments be contemplated in the area prior to the placement of a permanent channel the Public Works Department will recommend adjustments of the temporary ditches to allow restoration of land elevations required for access to your property and that of other owners involved with this situation.

Very truly yours,

E. F. Hensch
Director of Public Works

EFH:rs
cc: Mr. Paul Noland
Mr. John Robert
Mr. V. M. Kimmick
Mr. Kleston Laws

Approved:

Frank A. Kleinhenz
Chief Administrative Officer