

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Project Middle Rio Grande Division Albuquerque, New Mexico

**LICENSE FOR ERECTION AND MAINTENANCE
OF STRUCTURES**

1. Pursuant to authority given by the Commissioner of the Bureau of Reclamation, thereunto duly authorized by the Secretary of the Interior, the undersigned hereby accepts a license to erect and maintain a 14-inch wash line to be discharged into the San Jose drain in the City of Albuquerque, at the intersection of Broadway S.E. and Vesmaro Drive, S.E. This wash line outlet is located on Middle Rio Grande Conservancy District Property Map No. 44.

in connection with the Middle Rio Grande project, Bureau of Reclamation, constructed pursuant to the act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, at a point as described above.

upon the terms and conditions hereinafter set forth:

2. The licensee shall be liable for any and all damages to the property of the United States, or of any third-party or parties, by reason of the exercise of the privileges conferred by this license.

3. This license shall continue so long as in the opinion of the licensor it is considered to be expedient and not detrimental to the public interest, and shall be revocable by said officer upon ten days' written notice to the licensee. Upon such revocation the aforesaid structure or structures and all accessories shall be removed without delay at the expense of the licensee.

4. The aforesaid structure or structures shall be so erected as not to obstruct in any manner the flow of water in the canals, laterals, or drain ditches of the United States, or to interfere in any manner whatsoever with the construction, operation, and maintenance of any part of the project.

5. In the erection of the aforesaid structure or structures the following specifications and conditions must be complied with: as shown on the attached drawings No. Sheet 2 of 17, and 15 of 17. Elevation and inspection during construction will be furnished by the Bureau of Reclamation in accordance with the attached procedure.

6. There are reserved to the United States from the scope of this license all uranium, thorium and other materials and the rights pertaining thereto, in and with respect to the lands herein involved, which materials and rights are designated in paragraph 1 of Executive Order 9908 dated December 5, 1947 (3 CFR, 1947 Supp.).

7. The United States shall not be liable for any damages caused to the licensee, his agents or employees or to such property of the licensee as may be authorized hereby to be installed and maintained by reason of any act or failure to act on the part of the United States in the operation or maintenance of the Project.

8. The issuance of this license constitutes in no way and to no extent any surrender or subordination by the Bureau of Reclamation of its jurisdiction or supervision over all or any part of the lands involved herein.

9. Licensee 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 licensee 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 licensee to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

10. In connection with the performance of work under this license, the licensee agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provisions 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 licensee 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 licensee further agrees to insert the foregoing provision in all subcontracts hereunder, except subcontracts for standard commercial supplies or raw materials.

Dated at Albuquerque, N.M. this 21 day of August, 1951
attest: James E. Gorman William J. Tithes
City Clerk City of Albuquerque, Licensee
by: Chairman of the City Commission

Witness:

Approved by: [Signature] Approved August 10, 1951
Chief Engineer, Middle Rio Grande Conservancy District

Date approved: August 10, 1951
Charles H. Clark Bureau of Reclamation.
Acting Project Manager

302 E. PALACE AVE., SUITE 102
SANTA FE, NEW MEXICO

302 EIGHTH STREET, NW
ALBUQUERQUE, NEW MEXICO

GORDON HERKENHOFF & ASSOCIATES, INC.
CONSULTING ENGINEERS

July 31, 1956



Mr. Hubert Ball, Ch. Engineer
Middle Rio Grande Conservancy Distr.
1930 Second SW
Albuquerque, New Mexico

Dear Mr. Ball:

Enclosed herewith are prints of the two drawings which indicate the location at which it is proposed to construct a well wash line for the City of Albuquerque, as well as the proposed details of construction.

This wash line will serve three of the existing San Jose Field water wells and is required preparatory to placing the City water system under automatic control operation.

If additional information is required previous to your issuance of written approval, we will be glad to meet with you at your convenience.

Very truly yours,

Gordon Herkenhoff & Associates, Inc.

Gordon Herkenhoff
Gordon Herkenhoff

GH/pc
Encl.

August 14, 1956

Herkenhoff & Associates
302 Eighth Street NW
Albuquerque, New Mexico

Attention: Mr. Webster

Gentlemen:

Enclosed herewith copies of a license permitting the City of Albuquerque to install wash line as per revised plans. I have shown the wash line extending to the San Jose Lateral as the San Jose Lateral has been abandoned for several years and the only other possible outlet in this area would be the location shown in red on the enclosure.

When the license has been properly executed, the original is to be retained by the licensee, one copy returned to this office for our files and one copy returned to the Bureau of Reclamation for their files.

Respectfully yours,

Hubert Ball, Chief Engineer
MIDDLE RIO GRANDE CONSERVANCY DISTRICT

HB/mam

encl.

cc - to

Bureau of Reclamation

EXHIBIT HERK A-17
City of Albuquerque - License of 1958
San Jose Drain Improvements

Attached to "San Jose Drain Improvements", Sheets 1-18
of plan set by G. Herkenhoff, October, 1976

Exhibit Herk A-17 to license and agreement
by and between the United States of America,
the Middle Rio Grande Conservancy District and the
City of Albuquerque, dated September 22, 1958.

APPROVED

Middle Rio Grande Conservancy District

By D. S. Ramirez
Date 3 March, 1977

APPROVED

Bureau of Reclamation
Upper Rio Grande Basins Project

By R. E. Achumbura
Date March 7, 1977

APPROVED

City of Albuquerque, New Mexico

By E. F. Demaree
Date 3/4/77

Exhibit Herk A-17

PROCEDURE TO BE FOLLOWED IN INSTALLING
OR ERECTING STRUCTURES

All grades and elevations will be furnished by the Bureau of Reclamation's Resident Engineer, telephone No. 7-0311, Extension 285. The request for grades or elevations should be made at least five days before the beginning of construction. Inspection of construction to conform with approved plans included in the license will also be furnished by the Resident Engineer.

IMPORTANT

If the structure is not installed in accordance with furnished grades, elevations, and conformance with above plans, said license will be revoked in accordance with Clause 3 which provides for removal of structure at the expense of the licensee upon a ten-day written notice.

LICENSE AND AGREEMENT

This agreement made this 22nd day of September, 1958, pursuant to the Act of Congress approved June 17, 1902 (32 Stat. 388) and acts amendatory thereof and supplementary thereto, particularly the Act of August 5, 1939 (53 Stat. 1187), as amended by the Act of August 18, 1950 (64 Stat. 463), by and between the United States of America, hereinafter referred to as the United States and represented by the officer executing this agreement, the Middle Rio Grande Conservancy District, a municipal corporation of the State of New Mexico, hereinafter referred to as the corporation of the State of New Mexico, hereinafter referred to as the District, and the City of Albuquerque, a municipal corporation of the State of New Mexico, hereinafter referred to as the City.

WITNESSETH:

WHEREAS, the District has, pursuant to lawful authority and contract, transferred to the United States certain of its works, including certain rights of way and the drains located thereon, as hereinafter described, located within the City of Albuquerque and the County of Bernalillo, and

WHEREAS, the City wishes to introduce into the said drains certain storm sewer outlets and culverts so that the waters flowing therein may be discharged into the said drains, and

WHEREAS, the parties hereto recognize that the said drains were not constructed for the purposes of evacuating flood or run-off waters arising within the City of Albuquerque or in the vicinity thereof nor was the District authorized to construct works to fulfill such purposes, and

WHEREAS, the parties hereto do agree, however, as a convenience to the City, to permit the City to introduce into said drains such waters, provided certain conditions as hereinafter set forth are complied with, and provided further that it is recognized that this license shall not be construed as establishing any precedent for the allowance by the United States of any other culverts or inlets, or the introduction of any other water into any of the drains or works of the District held by the United States.

NOW, THEREFORE, in consideration of the premises and the

terms and conditions of this agreement, it is mutually agreed as follows:

1. The United States grants a license to the City to construct, operate and maintain certain drain and storm sewer inlets and culverts at points located on rights-of-way and structures of the United States, all as shown in exhibits to be attached hereto and by this reference made a part hereof. Said drain and storm sewer inlets and culverts shall be constructed and installed in accordance with plans and specifications approved by the United States and by the District. At such time as drawings showing the manner and fashion of the construction and installation of the inlets and/or culverts at a specific location are approved by the United States and by the District, they shall be labeled in alphabetical sequence "Exhibit _____ to License and Agreement by and between the United States of America, the Middle Rio Grande Conservancy District, and the City of Albuquerque, dated _____" attached hereto, and by this reference shall become a part hereof.
2. The City agrees to pay all construction and installation costs for said inlets and culverts, including the restoration of rights of way and structures of the United States to a condition satisfactory to the United States. The City agrees to maintain the inlet and culvert structures in good repair and working order. To this end, the City shall, at its own expense, keep trash and silt out of said inlets and culverts and shall keep the culverts clean at all times.
3. The City shall reimburse the United States for any and all increased operation and maintenance cost resulting from the introduction through said inlets and culverts of water into the drains of the United States. This shall include, but not be limited to, the cost of removing silt and other debris entering said drains through said inlets and culverts.
4. In the event the City fails to perform any of the conditions set forth in the agreement and the United States, with its funds, is put to any additional expense because of the installation of the inlet and culvert structures or the waters introduced therefrom, the City agrees to reimburse the United States for such expense. Bills for all amounts to be reimbursed by the City pursuant to this article, or any other article of this agreement, shall be submitted by the United States monthly, and the City agrees to pay said bills within 15 days from the receipt thereof.
5. The City hereby releases the United States, its officers, agents and

employees, and its successors and assigns from all damages which may result from the construction, operation or maintenance of said inlets and culverts across the rights of way of the United States, or the introduction of waters into the drains located thereon.

6. The City agrees to indemnify and save the United States, its officers, agents and employees, and its successors and assigns harmless from claims by third parties for injury or loss caused by or resulting from the construction, operation or maintenance of said inlets and culverts, or the introduction of water therefrom into the drains of the United States.

7. The rights and privileges conferred by this license shall terminate on June 30, 1959; Provided That the City may renew this license for one year by furnishing written notice at least 10 days in advance of the expiration date to the United States of its desire to renew the license under the same terms and conditions herein set forth; Provided, Further, That unless revoked, as provided in Paragraph 8 of this agreement, this license may be renewed by the City each year thereafter by providing similar notice to the United States. The written notice herein required shall show that the City has budgeted an adequate sum of money to cover the estimated liability of the City to the United States as provided for in this license. The provisions of this paragraph are expressly included to avoid a contention or determination that the liability of the City hereunder is invalid because of the provisions of the Bateman Act. (Sections II-6-6 through II-6-12, N.M.S. 1953 Anno.).

8. It is agreed that this license shall not ripen into any permanent right to introduce water into the drains of the United States nor give any permanent right for any definite period to change the course of the natural run-off of any water. The United States may revoke this license by giving the City 60 days' written notice of revocation. The City agrees that upon termination or cancellation of this license for any reason, it will, upon request of the United States, remove said inlets and culverts from said rights of way and drains.

9. This agreement shall be binding upon and inure to the benefit

of the successors and assigns of the parties hereto. To this end, the parties hereto recognize that at some future time, in accordance with applicable law, the works and facilities of the United States may be operated and maintained by the District and/or the title thereto may be reconveyed to the District. At such time, the payments and notices herein provided for shall be made to or by the District as its interests may appear.

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

UNITED STATES OF AMERICA

By [Signature]
Project Manager
Middle Rio Grande Project
Bureau of Reclamation

CITY OF ALBUQUERQUE

By [Signature]
Mayor
CITY OF ALBUQUERQUE

MIDDLE RIO GRANDE CONSERVANCY
DISTRICT

By [Signature]
Acting President

Attest: [Signature]

Attest: [Signature]
Secretary

Amendment to License and Agreement dated September 22, 1958
Between the United States, the Middle Rio Grande Conservancy District
and the City of Albuquerque

This AMENDATORY AGREEMENT made this 20th day of March, 1959, pursuant to the Act of Congress approved June 17, 1907 (35 Stat. 388) and acts amendatory thereof and supplementary thereto, particularly the Act of August 4, 1939 (53 Stat. 1187), as amended by the Act of August 18, 1950 (64 Stat. 463), by and between the UNITED STATES OF AMERICA, hereinafter referred to as the United States and represented by the officer executing this agreement, the MIDDLE RIO GRANDE CONSERVANCY DISTRICT, a municipal corporation of the State of New Mexico, hereinafter referred to as the District, and the CITY OF ALBUQUERQUE, a municipal corporation of the State of New Mexico, hereinafter referred to as the City.

WITNESSETH:

WHEREAS, the United States and the District have heretofore, by a License and Agreement dated September 22, 1958, permitted the City to install certain storm sewer outlets and culverts into the drains owned by the United States, and

WHEREAS, the parties hereto wish to amend the aforesaid agreement as follows:

NOW, THEREFORE, in consideration of the premises and the terms and conditions as hereinafter set forth, it is mutually agreed that the aforesaid License and Agreement shall be amended as follows:

1. Wherever the word "drains" appears in reference to the works of the United States and the District, the words "drains, canals, laterals and acequias" shall be substituted therefor.
2. Neither the United States nor the District shall have any duty or obligation to the City to operate and maintain the said rights-of-way, or the drains, canals, laterals, acequias or any of its other works or facilities located thereon, solely for the purposes of evacuating such flood or run-off water. To this end, should such drains, canals, laterals or acequias or any of the other

works and facilities be abandoned by the United States or the District, the rights conferred in the City by the License and Agreement, as amended, shall end, cease and determine.

3. The United States and the District do not warrant title to the premises and in the event of anyone other than the United States or the District owning or claiming title to, or any interest in, said premises, neither the United States nor the District shall be liable to the City for any loss or damage of any nature whatsoever by reason thereof.

4. The terms and conditions of that certain License and Agreement dated September 22, 1958, between the United States, the District and the City shall remain in full force and effect, except as herein changed or modified.

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

UNITED STATES OF AMERICA

By Richard V. Kelle
Acting Project Manager
Middle Rio Grande Project
Bureau of Reclamation

CITY OF ALBUQUERQUE

By William H. Thompson

Title Mayor, City of Albuquerque

MIDDLE RIO GRANDE CONSERVANCY
DISTRICT

By Richard V. Kelle

Title Chief Engineer

ATTEST:

John W. Thompson
Title: City Clerk

ATTEST:

John W. Thompson
Title: City Clerk

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Project Middle Rio Grande Branch Albuquerque State New Mexico

LICENSE FOR ERECTION AND MAINTENANCE
OF STRUCTURES

1. Pursuant to authority given by the Commissioner of the Bureau of Reclamation, heretofore duly authorized by the Secretary of the Interior, the undersigned hereby accepts a license to ~~construct~~ **install and maintain a 30-inch drain system**

in connection with the Middle Rio Grande Project, Bureau of Reclamation, constructed pursuant to the act of Congress approved June 17, 1902 (32 Stat., 388), and acts amendatory thereof or supplementary thereto, at a point where San Jose Lateral crosses Bethel Drive

upon the terms and conditions hereinafter set forth:

2. The licensee shall be liable for any and all damages to the property of the United States, or of any third party or parties, by reason of the exercise of the privileges conferred by this license.

3. This license shall continue so long as in the opinion of the licensor it is considered to be expedient and not detrimental to the public interest, and shall be revocable by said officer upon ten days' written notice to the licensee. Upon such revocation the aforesaid structure or structures and all accessories shall be removed without delay at the expense of the **licensee**

4. The aforesaid structure or structures shall be so erected as not to obstruct in any manner the flow of water in the canals, laterals, or drain ditches of the United States, or to interfere in any manner whatsoever with the construction, operation, and maintenance of any part of the Project.

5. In the erection of the aforesaid structure or structures the following specifications and conditions must be complied with:
All construction to be in accordance with drawings 2 and 11 of 14 sheets of plans for Bethel Subdivision Paving. Construction shall be completed prior to March 1, 1971. All construction subject to inspection and acceptance by Bureau of Reclamation.

6. Covenant against Contingent Fees. Licensee 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 licensee 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 licensee to pay, in addition to the contract price or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

7. Equal Opportunity Clause. The following provisions as set out in Section 202 of Executive Order No. 11246, dated September 24, 1965, as amended shall be applicable to this license.

"During the period of this license the licensee hereinafter referred to as the contractor, agrees as follows:

"(1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color or national origin. Such action 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 contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(4) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(7) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

Dated at Albuquerque, N.M.
this 13 day of March, 19 71

Approved: John Jayne
WAC: Chief Engineer, WACD

Approved: January 26
Date: 29 Jan. 1971

Richard H. Wilson
Licensee
Bureau of Reclamation
Project Superintendent



UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION
MIDDLE RIO GRANDE PROJECT OFFICE
P. O. BOX 252
ALBUQUERQUE, NEW MEXICO 87103

IN REPLY
REFER TO:

August 31, 1971

Mr. John F. Arfman, Chief Engineer
Middle Rio Grande Conservancy District
Post Office Box 581
Albuquerque, New Mexico 87103

Dear Mr. Arfman:

We have approved Exhibit "A-2 Herk" and are returning here-
with four copies of the supplement to license and agreement
for the San Jose Drain improvements and crossings. Contained
on sheets No. 40 through 53 are the project plans.

After you have approved the plans, please return one copy to
this office for our file.

Sincerely yours,

D. J. Arfman

Project Superintendent

Encl.

ATTACHED TO

"model Neighborhood Area
Drainage Improvements
WSNM-20"

SAN JOSE IMPROVEMENTS
sheets 42 through 53
of plan set by G.
Herkhoff date
June, 1971

Exhibit "A-2 Herk" to license and Agreement
by and between the United States of America,
the Middle Rio Grande Conservancy District
and the City of Albuquerque, New Mexico, dated
September 22, 1958.

APPROVED

CITY OF ALBUQUERQUE, NEW MEXICO

By *Donald R. Bunker*
Acting Director of Public Works
Date *8-25-71*

APPROVED

BUREAU OF RECLAMATION
MIDDLE RIO GRANDE CONSERVANCY PROJECT

By *D. J. Arfman*

Date *8-31-71*

APPROVED

MIDDLE RIO GRANDE CONSERVANCY DISTRICT

By *John F. Arfman*
Date *31 August 1971*