

HOL51PAR

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: EASEMENT (RIGHT-OF-WAY)

NAME OF AGENCY OR CONTRACTOR: HOLLY SUGAR CORPORATION, USER OF MESA COUNTY
DITCH LATERAL NO. 85 AND COE VAN DEREN AND EARL E. BARBOUR, OWNERS OF
PARKLAND

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: IRRIGATION EASEMENT
RIGHT-OF-WAY -- HOLLY SUGAR CORPORATION GRANTS THE CITY AND OWNERS OF
PARKLAND THE RIGHT TO MOVE THE LOCATION OF IRRIGATION DITCH FROM 19TH STREET
TO THE EAST FIVE FEET OF PARKLAND, RUNNING FROM THE NORTHEAST CORNER TO GRAND
AVENUE

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1951

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

THIS AGREEMENT made and entered into on this, the _____ day of July, 1951, by and between THE CITY OF GRAND JUNCTION, COLORADO, a municipal corporation, party of the first part, and HOLLY SUGAR CORPORATION, a corporation, for itself and all water users on Mesa County Ditch Lateral No. 85, party of the second part, and COE VAN DEREN and EARL E. BARBOUR, parties of the third part.

W I T N E S S E I H :

WHEREAS, the parties of the third part are the owners of Parkland, City of Grand Junction, Mesa County, Colorado; and

WHEREAS, it is the mutual wish and desire of the parties hereto that a part of the location of said irrigation ditch be changed from 19th Street to the east five (5) feet of said Parkland.

NOW, THEREFORE, for and in consideration of the premises, IT IS MUTUALLY AGREED by and between the parties as follows:

1. The second party for itself and other owners of Mesa County Ditch Lateral No. 85 hereby grants unto the first and third parties the right to move the location of said irrigation ditch from 19th Street, Grand Junction, Colorado, to the east five (5) feet of Parkland, Grand Junction, Mesa County, Colorado, running from the northeast corner of said Parkland to Grand Avenue.

2. The third parties do hereby grant unto the second party and other owners of said ditch an easement and right-of-way for the location and maintenance of said irrigation ditch along the east five feet of Parkland, City of Grand Junction, Mesa County, Colorado, and the first party hereto does hereby grant unto the second party and other owners of Mesa County Ditch Lateral No. 85 an easement five feet in width for the construction and maintenance of an irrigation ditch across and over the streets and alleys between the northeast corner of said Parkland and the southeast corner thereof.

3. It is understood and agreed between the parties that the third parties hereto shall construct an underground cement ditch

with an inside measurement of 24 inches by 24 inches, with cement on the bottom and two sides, and two-inch creosoted timber on top. The third parties agree to construct said ditch along said east five feet of Parkland from the northeast corner of said Parkland to a point 660.21 feet south and to construct a temporary open ditch from said point running in a southwesterly direction connecting with the present open irrigation ditch on 19th Street.

4. It is specifically understood and agreed that no permanent right-of-way is hereby given or granted by third parties for said open ditch from a point 660.21 feet south of the northeast corner of Parkland, thence in a southwesterly direction to a point approximately at Grand Avenue and 19th Street, it being the intention of the parties hereto that at some date in the future third parties may abandon said open ditch and change it to a line starting at a point 660.21 feet south of the northeast corner of Parkland and running thence south along 20th Street to Grand Avenue, siphoning across Grand Avenue and running thence west along Grand Avenue to 19th Street and there connecting with the present ditch. Third parties agree that when they do so change the ditch line, they will provide or obtain right-of-way for the ditch as it is so to be changed and construct an underground cement ditch with inside measurement of 24 inches by 24 inches along said changed line, and will provide a siphon across Grand Avenue and do all things necessary to effectively protect second party and other owners of said ditch along said new ditch line. Until such changes are provided by third parties, they shall provide a right-of-way for the ditch from a point 660.21 feet south of the northeast corner of Parkland southwesterly to a point approximately at Grand Avenue and 19th Street and a connection at that point with the present line of the ditch.

5. The first party hereto agrees to assist in the construction of said ditch by excavating said ditch in a manner satisfactory to permit third parties to pour and construct said cement

ditch, and first party further agrees to backfill and cover said ditch at no expense to third parties. Third parties agree to construct said ditch using materials and specifications as required by the Grand Junction City Engineer and agree to construct said ditch in a manner satisfactory to him and under his supervision and direction.

6. First party further agrees to maintain and repair said ditch so constructed at all times in the future, and the parties hereto agree that third parties are hereby relieved of any and all liability for the future repair and maintenance of said ditch.

7. It is understood and agreed by the parties that second party and the other owners of Mesa County Ditch Lateral No. 85 are entitled to draw and carry through said ditch a total of 200 inches of water. It is hereby agreed that nothing herein contained shall limit the right of second party and said other owners to obtain and carry through said ditch said total of 200 inches, and if at any time for any reason the ditch as altered, constructed and maintained by first and third parties shall not be adequate to carry 200 inches of water, then such corrections shall be made as may be necessary to insure carrying capacity of 200 inches, and said correction shall be performed by first party and/or third parties. It is the intention and agreement of the parties in this respect that the initial responsibility for the capacity of the ditch shall be on third parties insofar as the initial construction and design thereof is concerned. After it is once demonstrated that the ditch as provided by third parties has a capacity of 200 inches, then the maintenance of the ditch to continue said capacity shall be the responsibility of first party.

8. This agreement shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have hereunto set

their hands and seals the day and year first above written.

ATTEST:

Helen C. Jonelinson
City Clerk

CITY OF GRAND JUNCTION, COLORADO

By W.D. Poy
Manager
Party of the First Part

ATTEST:

Wm. Grant
Secretary

HOLLY SUGAR CORPORATION

By W. T. Ziegler
Vice President
Party of the Second Part

Carl Van Doren
Carl Van Doren
Parties of the Third Part

No 3379

Agreement with
Holly Sugar Corp. et al
concerning right to
remove irrigation
ditch from March 19th Rd
to the east 5 feet of
Parkland

7-17-51

[Faint, illegible handwritten notes and signatures]

- 3244 -

491250

a. y
y

V. de Hoop

RECORDED

STATE OF COLORADO } ss
County of MESA }
I hereby certify that this instrument was
Filed for record

NOV 4 1948

at 11²¹ o'clock 9. M. and recorded
in Book 495 Page 16
ANNIE M. DUNSTON, County Clerk & Recorder
Annie M. Dunston

20
Mrs. Helen Tomlinson