

ROG6015S

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: EASEMENT [LEASE]

NAME OF AGENCY OR CONTRACTOR: THE DENVER AND RIO GRANDE  
WESTERN RAILROAD COMPANY, C.E. MCENANY

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: 15TH STREET  
AND HOLLY SUGAR, INTERCEPTOR SEWER RIGHT-OF-WAY  
LEASE NO. 22987

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1960

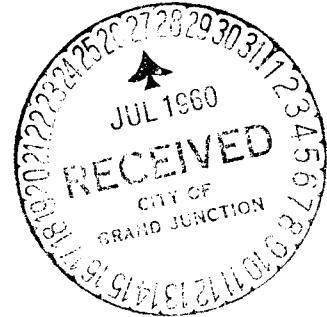
EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

# THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

GRAND JUNCTION, COLORADO

July 22, 1960



City of Grand Junction  
Grand Junction, Colorado

Attention: Mr. J. M. Lacy,  
City Manager

Dear Mr. Lacy:

For your information and file, enclosed is executed copy of Contract No. 22987 covering installation of 14-inch diameter cast iron sewer pipe extending southwesterly at right angles across the right-of-way and under our Main Track and six Yard tracks at Grand Junction, a distance of 138-feet from man-hole to be located 17-feet southwesterly from our northeasterly right-of-way line opposite Mile Post 450 plus 1984-feet.

If the \$25.00 fee covering License has not been paid, you may send check or draft in favor of the Denver and Rio Grande Western Railroad Company, to me for further handling.

Yours truly,

C. E. McEnany,  
Superintendent.

**PIPE LINE CROSSING AGREEMENT**

THIS AGREEMENT, Made and entered into this 7th day of July, 1960, by and between THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, a corporation of the State of Delaware (hereinafter called "Railroad Company"), party of the first part, and CITY OF GRAND JUNCTION, a municipal corporation of the State of Colorado,

(hereinafter called "Licensee"), party of the second part,

**WITNESSETH:**

Section 1. The Railroad Company, for and in consideration of the covenants and agreements herein set out, to be by Licensee kept, observed and performed, hereby licenses and permits the Licensee, subject to the terms and conditions hereinafter stated, to construct and thereafter to maintain and operate the pipe line or pipe lines hereinafter described (hereinafter called "Pipe Line") upon or along or across the right of way and under the track or tracks of the Railroad Company as herein specified, to-wit:

A 14-inch diameter, Class 150, cast iron sewer pipe line extending southwesterly at right angles across the right of way and under the main track and six yard tracks of The Denver and Rio Grande Western Railroad Company a distance of 138 feet from a manhole to be located 17 feet southwesterly from said Railroad Company's northeasterly right of way line opposite Mile Post 450+1984 feet at Grand Junction, Mesa County, Colorado, within the southwest quarter of the northeast quarter of Section 15, Township 1 South, Range 1 West, Ute Principal Meridian, as shown on the attached map No. G-142; said sewer pipe line to be encased in 138 feet of 24-inch diameter, 3/8-inch wall thickness, asphalt coated steel pipe to be laid at a depth of not less than 14 feet below the base of rails in said track.

The foregoing License is subject and subordinate to the prior and continuing right and obligation of the Railroad Company to use and maintain its entire Railroad right of way in the performance of its public duty as a common carrier, and is also subject to the right and power of the Railroad Company to construct, maintain, repair, renew, use, operate, change, modify or relocate additional railroad tracks, telegraph, telephone, signal or other wire lines, pipe lines, and other facilities, structures or improvements upon, along or across any or all parts of said right of way and said Pipe Line, all or any of which may be freely done at any time or times by the Railroad Company, without liability to the Licensee or any other party for compensation or damages. In the event the Railroad Company elects to construct additional railroad tracks, structures or improvements upon its right of way and over and/or across said Pipe Line, the Licensee shall, upon notice of such election, extend said Pipe Line and, if required so to do by the Railroad Company construct the roadbed for such additional track or tracks across said Pipe Line according to such plans and specifications as the Railroad Company may prescribe.

The foregoing License is also subject to all outstanding superior rights (including those in favor of telegraph and telephone companies, lessees of said right of way and others) and the right of the Railroad Company to renew and extend the same.

Section 2. The Licensee agrees to use the Pipe Line for the following purposes and for no other, to-wit:

**Sewer line**

Section 3. The Licensee agrees to pay to the Railroad Company, in advance, the sum of \$ 25.00 as consideration for the License herein granted.

said right of way and other property of the Railroad Company shall not be increased because of the location, construction or maintenance of the Pipe Line, or any improvement, appliance or fixture connected therewith, placed upon said right of way, or on account of the Licensee's interest therein. Where such tax, charge or assessment may not be separately made or assessed to the Licensee but shall be included in the assessment of the right of way, or other property of the Railroad Company, then the Licensee shall pay to the Railroad Company an equitable proportion of such taxes, determined by the value of Licensee's property upon said right of way as compared to the entire value of said right of way.

Section 11. In the event the Licensee shall take down any fence of the Railroad Company or in any manner move or disturb any of the other property of the Railroad Company in connection with the construction, maintenance, repair, extension, renewal or reconstruction of the Pipe Line, then and in that event the Licensee shall, as soon as possible, and at its sole expense, restore such fence and/or such other property to the same condition as it was in before such fence was taken down or such other property was moved or disturbed, and the Licensee shall indemnify and save harmless the Railroad Company from and against any and all liability, loss, damages, claims, demands, costs and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever or damage to or loss or destruction of property whatsoever, when such injury, death, damage, loss or destruction grows out of or arises from the taking down of any fence or the moving or disturbing of any of the other property of the Railroad Company.

Section 12. In the event the Railroad Company shall dispose of any of its property upon which the Pipe Line is located, as herein provided, the Licensee or permit herein granted with respect to the portion of the Pipe Line located upon the property so disposed of, shall forthwith cease and determine.

Section 13. The Licensee shall indemnify and hold harmless the Railroad Company from and against any and all liability, loss, damage, claims, demands, cost and expenses of whatsoever nature, including court costs and attorneys' fees, which may result from injury to or death of persons whomsoever, or damage to or loss of or destruction of property whatsoever (including damage to the roadbed, tracks, equipment, or other property of the Railroad Company or property in its care or custody) whether such injury, death, loss, destruction or damage grows out of or arises from the bursting of or leaks in the Pipe Line, or the explosion or ignition of gas or oil carried therein, or escaping therefrom, or in any other way whatsoever is due to, or arises because of, the existence of the Pipe Line or the operation, construction, maintenance, repair, extension, renewal, modification, reconstruction, revision, relocation or removal of the Pipe Line, or any part thereof, or to the contents therein or therefrom. And the Licensee does hereby release the Railroad Company from all liability for damages on account of injury to the Pipe Line from any cause whatsoever.

Neither the right of supervision by the Railroad Company of the location, construction, maintenance, repair, extension, renewal, reconstruction or relocation of the Pipe Line, nor the exercise or failure to exercise said right, nor the approval or failure to disapprove by the Railroad Company of the location, construction, maintenance, repair, extension, renewal or reconstruction of said Pipe Line, nor the election of the Railroad Company to repair or reconstruct the whole or any part of said Pipe Line shall be deemed a waiver of the obligation of the Licensee contained in this section, or a release therefrom or from any other obligation of this contract resting upon said Licensee that is hereinbefore or hereinafter expressed or implied.

Section 14. For the further protection of the Railroad Company, the Licensee, before any work is begun, agrees to procure and maintain at Licensee's own expense, in a company acceptable to the Railroad Company, Comprehensive General Liability Insurance in minimum limits of \$.....100,000.....one person, \$.....1,000,000..... one accident for bodily injury, and \$.....500,000.....for property damage, which policy shall specifically insure the liability assumed by the Licensee under Sections 11 and 13 of this agreement. Licensee shall furnish the Railroad Company Certificates of Insurance, in duplicate, evidencing such insurance to be in full force and effect and that the same will not be cancelled without at least fifteen (15) days' advance written notice by Insurance Company to the Railroad Company's Insurance Department, 1531 Stout Street, Denver, Colorado.

**See Exhibit "A" attached hereto and made a part hereof. Said insurance shall be maintained throughout the period of construction only of the facilities referred to in Section 2 hereof.**

Section 15. Disuse of the Pipe Line continuing, at any time for a period of one year, shall constitute an abandonment thereof, and in the event of such an abandonment the Railroad Company may, at its option terminate this agreement.

If the Licensee shall fail to keep and perform all or any of the covenants and agreements herein contained, to be by it kept and performed, or if the Licensee shall fail to make any of the payments which it is obligated to make hereunder, and such default shall continue for a period of thirty (30) days after written notice from the Railroad Company to the Licensee, specifying such default, then the Railroad Company may, at its option, forthwith terminate this agreement.

Notwithstanding anything to the contrary herein contained, it is agreed that if at any time the maintenance and operation of said Pipe Line shall be inconsistent with the use by the Railroad Company of its right of way for railroad purposes, this License shall immediately cease, ipso facto.

Section 16. Within ninety (90) days after the termination of this agreement howsoever, the Licensee shall, at its sole expense, remove the Pipe Line from those portions of said right of way not occupied by the roadbed and track or tracks of the Railroad Company and shall restore, to the satisfaction of the Railroad Company, said portions of said right of way to as good condition as they were in at the time of the construction of the Pipe Line, and if the Licensee fails so to do, the Railroad Company may do such work of removal and restoration at the expense of the Licensee. The Railroad Company may, at its option, upon such termination, at the expense of the Licensee, remove the portions of the Pipe Line located underneath the said roadbed and track or tracks and restore said roadbed to as good condition as it was in at the time of the construction of the Pipe Line, or it may permit the Licensee to do such work of removal or restoration under the supervision of the Railroad Company. In the event of the removal of the Pipe Line as in this section provided, the Railroad Company shall in no manner be liable to the Licensee for any damage sustained by the Licensee for or on account of such removal, and such removal shall in no manner prejudice or impair any right of action for damages or otherwise that the Railroad Company may have against the Licensee.

Nothing in this section contained shall obligate the Licensee to remove the Pipe Line because of the termination of this License under the provisions of Section 12 hereof, in cases where the Licensee shall have made arrangements for the continuation of the Pipe Line with the grantee or grantees of the Railroad Company.

Section 17. The waiver by the Railroad Company of the breach of any condition, covenant or agreement herein contained, to be kept, observed and performed by the Licensee, shall in no way impair the right of the Railroad Company to avail itself of any subsequent breach thereof.

Section 18. The Licensee shall not sublet, in whole or in part, the License herein granted, and shall not assign this agreement without the written consent of the Railroad Company, and it is agreed that any transfer or assignment, or attempted transfer or assignment of this agreement, or any of the rights hereby granted, whether voluntary, by operation of law, or otherwise, without such consent in writing, shall be absolutely void, and, at the option of the Railroad Company, shall terminate this agreement.

Section 19. This agreement shall take effect as of the 21<sup>st</sup> day of July, 1966, and shall continue in full force and effect until terminated as herein provided.

Section 20. Subject to the provisions of Section 18 hereof, this agreement shall be binding upon and enure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate as of the date first herein written.

THE DENVER AND RIO GRANDE WESTERN  
RAILROAD COMPANY

By John Sykes  
Chief Engineer

CITY OF GRAND JUNCTION  
Licensee

By Tom Kelly  
City Manager

ATTEST:

W. C. J. [Signature]  
City Clerk

# CERTIFICATE OF INSURANCE

Name & Address To Whom Issued <b>The Denver and Rio Grande Western Railroad Co.</b> <b>1531 Stout Street, Denver, Colorado</b>	Insured Name & Address
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This is to certify that the following policies, have been issued by this Company:

Type of Insurance	Policy Number	Effective Date	Expiration Date	Limits of Liability	
Workman's Compensation				Statutory	
Employers' Liability				\$	Each Person
				\$	Each Accident
				\$	Medical—Each Person
Manufacturers' or Contractors' (Bodily Injury)				\$	Each Person
				\$	Each Accident
Manufacturers' or Contractors' (Property Damage)				\$	Each Accident
				\$	Aggregate
Owners' or Contractors' Protective (Bodily Injury)				\$	Each Person
				\$	Each Accident
Owners' or Contractors' Protective (Property Damage)				\$	Each Accident
				\$	Aggregate
Comprehensive General Bodily Injury				\$	100,000 Each Person
				\$	1,000,000 Each Accident
				\$	Aggregate Products
Comprehensive General Property Damage				\$	500,000 Each Accident
				\$	Aggregate Operations
				\$	Aggregate Protective
				\$	Aggregate Products
Automobile (Bodily Injury)				\$	Each Person
				\$	Each Accident
Automobile (Property Damage)				\$	Each Accident

**Description and location of operations and automobiles covered:**

POLICY HEREIN ABOVE REFERRED TO IS EXTENDED TO SPECIFICALLY INSURE LIABILITY ASSUMED BY

**CITY OF GRAND JUNCTION** UNDER SECTIONS **11** AND **13** OF **Pipe Line Crossing**

AGREEMENT DATED **July 7, 1960** WITH THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

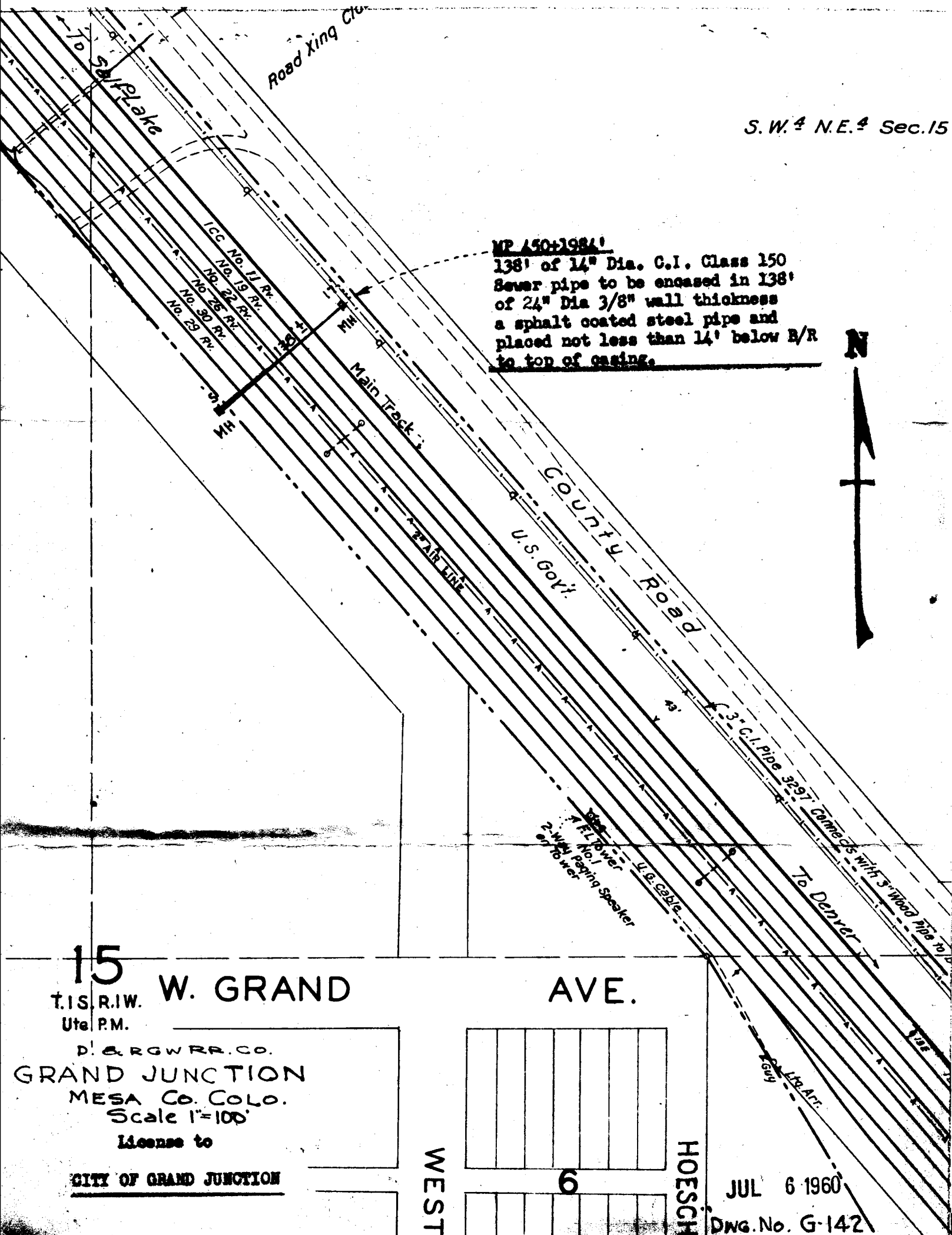
COVERING CROSSING OF THE RAILROAD COMPANY'S TRACKS AT OR ABOUT **MP 450+1984 feet, Grd. Jct., Colo.** IN EVENT OF CANCELATION OF COVERAGE AFFORDED BY THIS CERTIFICATE, AT LEAST 15 DAYS' ADVANCE NOTICE SHALL BE GIVEN TO INSURANCE DEPARTMENT, THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, 1531 STOUT STREET, DENVER 2, COLORADO.

Date \_\_\_\_\_

.....  
 (NAME OF INSURANCE COMPANY)  
 By \_\_\_\_\_

S.W. 4 N.E. 4 Sec. 15

MP 150+198.1  
138' of 14" Dia. C.I. Class 150  
Sewer pipe to be encased in 138'  
of 24" Dia 3/8" wall thickness  
a asphalt coated steel pipe and  
placed not less than 14' below B/R  
to top of casing.



15

T. 1 S. R. 1 W.  
Ute P.M.

W. GRAND

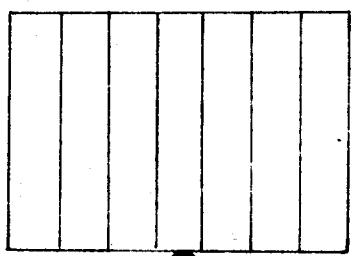
AVE.

D. & R. G. W. R. R. CO.  
GRAND JUNCTION  
MESA CO. COLO.  
Scale 1"=100'

License to

CITY OF GRAND JUNCTION

WEST



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JUL 6 1960

DWG. No. G-142