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TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	CONTRACT
NAME OF CONTRACTOR:	UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT
SUBJECT/PROJECT:	KANNAH CREEK, EXTENSION OF BAUER DITCH, TOWNSHIP 12 SOUTH, RANGE 97 WEST, 9 PM SECTION 19, LOT 8
CITY DEPARTMENT:	UTILITIES AND STREETS
YEAR:	1980
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
COLORADO STATE OFFICE

Serial Number C-30221

Expiration Date _____

Right-of-Way Grant

This right-of-way grant, which is a license for a term of 30 years entered into on _____, by the United States of America, the licensor, through the Bureau of Land Management, and the City of Grand Junction, 250 North Fifth Street, Grand Junction, Colorado 81501, the licensee, is hereby issued under Title V of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2776-2782; 43 U.S.C. 1701, 1761-1771), and is subject to all applicable Federal, State and local laws and regulations, now or hereafter in force, including Title 43, Code of Federal Regulations, Part 2800. The terms used in this right-of-way grant are defined at 43 CFR 2800.0-5 (45 Federal Register 44527, July 1, 1980).

Sec. 1. RIGHTS UNDER THIS RIGHT-OF-WAY GRANT -- This right-of-way grant confers upon the holder a non-exclusive right to construct, operate and maintain, in accordance with the terms, conditions and stipulations of this document and applicable regulations, an extension to the irrigation and stock water ditch known as Bauer Ditch (or Bower Ditch) on the following-described public lands situated in the State of Colorado (this description is limited to 40-acre aliquot parts, or surveyed lots, within which the right-of-way is to be located):

Township 12 South, Range 97 West, 6th P.M.
Section 19: Lot 8

a. This right-of-way grant is subject to all valid rights existing on the date issued.

b. The United States retains all rights in the public lands subject to this right-of-way not expressly granted in this document, including, but not limited to, the right to require common use of the right-of-way and to authorize compatible uses of the right-of-way, including the subsurface and air space; and a continuing right of access onto the public lands covered by the right-of-way grant and, upon reasonable notice to the holder, access and entry to any facility constructed on the right-of-way.

c. The United States retains the right to review this right-of-way grant at the end of the twentieth year of its term and revise or modify its terms at that time.

d. This right-of-way grant shall terminate on _____ unless prior to that time it is relinquished, abandoned or otherwise terminated pursuant to the provisions of this grant or of any applicable Federal law or regulation. This right-of-way grant is renewable at the end of its term if an application for renewal is properly and timely filed by the holder and the facility is being operated and maintained in accordance with all provisions of this grant, and applicable laws and regulations. At the time of renewal, the authorized officer may modify the terms, conditions and stipulations of this grant.

Sec. 2. TERMS AND CONDITIONS -- In consideration of the foregoing, the holder hereby agrees:

a. To construct, operate and maintain on public lands only those facilities represented at the location(s) shown on the official approved right-of-way map, consisting of 3 sheets, filed with the Bureau of Land Management on June 18, 1980, and designated by the holder as Bauer Ditch Diversion. The total width of the right-of-way granted by this document is 50 feet for the first year or until construction is completed and 30 feet thereafter.

b. To comply with applicable State standards for public health and safety, environmental protection, and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.

c. That all activities authorized by this right-of-way grant may be suspended prior to an administrative proceeding, upon a determination by the authorized officer that such suspension is necessary to protect the public health and safety or the environment. An order of immediate temporary suspension of activities shall remain effective until the authorized officer issues an order permitting resumption of activities.

d. That the authorized officer may suspend or terminate this right-of-way grant if he determines that the holder is unwilling, unable or has failed to comply with the applicable laws or regulations, or any term, condition or stipulation of this document or has abandoned the right-of-way. Failure of the holder to use the right-of-way for the purposes authorized for any continuous five-year period shall constitute a presumption of abandonment.

e. To provide the authorized officer with a statement, commencing on the fifth year from the date of this right-of-way grant and every five years thereafter, that the holder is using the right-of-way for the purposes authorized herein in accordance with the terms of this grant.

f. To remove all structures and improvements within a reasonable time after termination, revocation or cancellation of this right-of-way grant, unless directed otherwise in writing by the authorized officer, and to restore the site to a condition satisfactory to the authorized officer. If the holder fails to remove all such structures or improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but the holder shall remain liable for the cost of removal of the structures and improvements and for restoration of the site.

g. That this right-of-way grant cannot be conveyed, assigned or otherwise transferred, in whole or in part, without prior written approval by the authorized officer. Any transfer will be subject to existing regulations and such other terms, conditions and stipulations deemed necessary at the time of approval of the transfer.

h. To notify the authorized officer of any change in the holder's status, such as changes in legal mailing address, financial condition, business or corporate status, and alien ownership.

i. That this right-of-way grant does not authorize the holder to take from the public lands any mineral or vegetative material, including timber, without securing prior authorization under the Materials Act (30 U.S.C. 601 et seq.; 43 CFR 3610) and paying in advance the fair market value of the material so removed. However, common varieties of stone and soil that are necessarily removed in the construction of this project may be used elsewhere on public lands in the same project without additional authorization and payment. In the performance of normal maintenance, the holder shall be allowed to do minor trimming, pruning and clearing of vegetative material within the right-of-way and around constructed facilities without additional authorization and payments.

j. To pay the United States the full value for all damages to the lands or other property of the United States caused by the holder or by his employees, contractors, or employees of the contractors.

k. To be fully liable for injuries or damages to third parties resulting from activities or facilities on lands under Federal jurisdiction, in accordance with the law of the jurisdiction in which the damage or injury occurred, and to fully indemnify the United States for liability, damage or claims arising in connection with the use and occupancy of the right-of-way area.

l. To rebuild and repair roads, fences, and established trails that may be destroyed or damaged by construction, operation or maintenance of the project authorized by this right-of-way grant and to build and maintain suitable crossings for existing roads and trails that intersect the project.

m. To prevent or suppress fires on or in the immediate vicinity of the right-of-way and to make available such construction and maintenance personnel and equipment as may be reasonably obtainable for the suppression of such fires.

n. To take all measures necessary to protect Federal property and economic interests; protect lawful users of the lands adjacent to or traversed by the right-of-way; to protect lives and property; and to protect interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and other biotic resources of the area for subsistence purposes.

o. That in the construction, operation, maintenance and termination of the facilities authorized by this right-of-way grant, the holder shall not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin. All subcontracts shall include an identical provision.

Sec. 3. STIPULATIONS -- The holder further agrees to comply with and be bound by the following stipulations, which are made a part hereof: For the purposes of these stipulations, the authorized officer shall be the Grand Junction Resource Area Manager.

a. The holder shall immediately bring to the attention of the authorized officer any and all antiquities or other objects of historic or scientific interest including, but not limited to, historic or prehistoric ruins, or artifacts discovered as a result of operations under this right-of-way grant. The holder shall immediately suspend all activities in the area of the object and shall leave such discoveries intact until told to proceed by the authorized officer. Approval to proceed will be based upon evaluation of the cultural significance of the object. Evaluation shall be by a qualified professional selected by the authorized officer from a Federal agency insofar as practicable. When not practicable, the holder shall bear the cost of the services of a non-Federal professional. The holder shall follow the mitigation requirements set forth by the authorized officer concerning protection, preservation or disposition of any sites or material discovered. In those situations where the authorized officer determines that data recovery and/or salvage excavations are necessary, the holder shall bear the cost of such data recovery and/or salvage operations.

b. The holder shall comply with the applicable Federal and state laws and regulations concerning the use of pesticides (i.e., insecticides, herbicides, fungicides, rodenticides, and other similar substances) in all activities and/or operations under this right-of-way grant. The holder shall obtain from the authorized officer approval of a written plan prior to the use of such substances. The plan must provide for the type and quantity of material to be used; the pest, insect, fungus, etc., to be controlled; the method of application, the location for storage and disposal of containers; and other pertinent information that the authorized officer may require. The plan should be submitted no later than December 1 of any calendar year that covers the proposed activities for the next fiscal year.

Emergency use of pesticides may occur. The use of substances on or near the right-of-way area shall be in accordance with the approved plan. A pesticide shall be used only in accordance with its registered uses and without other limitations if the Secretary of the Interior has not imposed restrictions. A pesticide shall not be used if the Secretary has prohibited its use. Pesticides shall not be permanently stored on public lands authorized for use under this right-of-way grant.

c. The grantee shall call for a preconstruction conference with the authorized officer at least one week prior to the commencement of any surface disturbing activities authorized under this grant. The grantee shall likewise notify the authorized officer when construction activities are completed so that a BLM representative can examine the right-of-way area to determine that all the terms, conditions, and stipulations of this grant have been complied with. Prior to abandonment of the items authorized herein, the grantee shall supply for the authorized officer's approval an abandonment plan.

d. No new roads shall be built in conjunction with the facilities authorized herein.

e. All construction activities shall be confined to the minimum area necessary and shall not exceed the 50-foot right-of-way width granted herein. The exterior boundaries of the right-of-way shall be clearly flagged.

f. When construction of the facilities authorized herein is completed, the grantee shall rehabilitate all disturbed areas as directed by and to the satisfaction of the authorized officer. All disturbed areas shall be recontoured and re-vegetated, using the following seed formula:

Indian ricegrass	2 lbs/acre
Western wheatgrass	3 lbs/acre
Streambank wheatgrass	2 lbs/acre

Sec. 4. EXECUTION AND AGREEMENT -- This right-of-way grant consists of 4 pages, of which this is the fourth. Execution of this document constitutes an agreement between the holder and the United States that, in consideration of the right to use Federal lands, the holder shall abide by all the terms, conditions and stipulations contained in this document and the provisions of applicable laws and regulations.

For Execution by the Holder:

James E. Wysocki
(Holder's Signature)
City Mgr. City of G. J.
Title (if applicable)
10-6-80
Date

ATTEST:

Deva B. Lockhart, CMC
City Clerk

Corporate Seal
(if applicable)

For Execution by the United States:

The United States of America

Leader, Canon City-Grand Junction Team
Branch of Adjudication
Colorado State Office
Bureau of Land Management