

DYI92RWR

TYPE OF RECORD:	PERMANENT
CATEGORY OF RECORD:	CONTRACT
NAME OF CONTRACTOR:	DYNAMIC INVESTMENTS, INC.
SUBJECT/PROJECT:	RIDGES METROPOLITAN DISTRICT, DEVELOP APPROXIMATELY 330 ACRES WEST OF DISTRICT
CITY DEPARTMENT:	UTILITIES AND STREETS
YEAR:	1992
EXPIRATION DATE:	NONE
DESTRUCTION DATE:	NONE

AGREEMENT

THIS AGREEMENT is made and entered into this 5th day of February, 1992, by and between Dynamic Investments, Inc. a Colorado corporation ("Buyer"), and the City of Grand Junction, a municipal corporation, State of Colorado, hereinafter referred to as "CITY".

RECITALS.

WHEREAS, Buyer has stated its intentions to continue with the development of lands with the Ridges Metropolitan District, and

WHEREAS, in addition, Buyer intends to develop some 330 acres generally west of the District, and

WHEREAS, both the City and Buyer agree that Buyer's development will be enhanced by a golf course, and

WHEREAS, the City believes that its residents will benefit if such a golf course is constructed, and

WHEREAS, the Buyer asserts that its ability to obtain financing for such a golf course will be greatly benefitted by the conveyance contemplated by this Agreement, and

WHEREAS, the City is willing to make this conveyance to facilitate such development and the golf course.

WHEREAS, the City was awarded a 120 C.F.S. conditional direct flow right (the Water Right) on the Gunnison River in Case No. 8303, District Court of Mesa County, and

WHEREAS, 18.6 C.F.S. of that right have been made absolute and the balance of 101.40 is still conditional, and

WHEREAS, the water is needed for use in the Ridges Metropolitan District and approximately 330 acres west of the district, and

WHEREAS, the Buyer is the developer and still owns a substantial portion of the Ridges Metropolitan District and the additional 330 acres to the west, and

WHEREAS, the City is willing to convey 5 C.F.S. of the remaining 101.40 C.F.S. which is conditional, and

WHEREAS, the Buyer understands and agrees that it is responsible for any proceedings which might be required to change that portion of the Water Right conveyed to Buyer for use in the Ridges Metropolitan District as well as all diligence filings and to make absolute the 5 C.F.S. to be conveyed, and

In consideration of the mutual obligations, benefits, duties and promises, the parties hereto agree as follows:

1. City agrees to convey to Dynamic Investments, Inc. by quit claim deed, for \$100.00, the City's conditional rights to 5 cubic feet per second of that part of the Water Right which is conditional. This contract, and agreement to convey, deals only with that portion of the balance of the Water Right which is still conditional. The Water Rights was appropriated in order to provide additional water to the City's water treatment facilities. The pump site and other appurtenant facilities are located on lands owned by the Redlands Water and Power Company and the point of diversion is the existing intake to the City pumps located on the Gunnison River below the City water treatment plant. Such quit claim conveyance shall be conditioned on the beneficial use of such water only on the lands identified on Exhibit "Dynamic A" and lands within the Ridges Metropolitan District.

2. The parties acknowledge that it would be most economical, for the purposes of Buyer, to transport the subject water in the existing conveyance system owned by the Ridges Metropolitan District. However, that system is not owned by the City. Therefore, the parties agree that the City will attempt to obtain the consent of the District to allow the Buyer the joint use of such facilities. If the City thereafter owns or control the conveyancing system, the City agrees to, in good faith, negotiate an agreement to the end of allowing such use, subject to the requirement that Buyer shall share in the costs of operating and maintaining the conveyancing facilities on a pro rata basis, and in any required capital costs on a pro rata basis.

Further, the parties acknowledge that to the extent that Buyer has rights, as a property owner in the Ridges, to water delivered through such facilities and that the water to be conveyed by the City is in addition to, and supplementary to, existing rights and privileges.

3. This agreement shall survive the transfer of title pursuant to the terms of this agreement.

4. Buyer may assign its rights hereunder with the consent of the City, which consent shall not be unreasonably withheld.

5. The City Manager's signature hereon does not bind the City until this agreement is ratified by the City Council.

Attest:


Neva B. Lockhart, CMC
Neva B. Lockhart
City Clerk

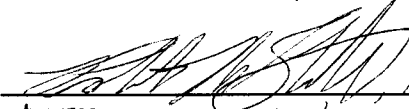
City of Grand Junction
250 North Fifth Street
Grand Junction CO 81501

By: Mark K. Achen
Mark K. Achen
City Manager

Attest:

Dynamic Investments, Inc.


Secretary

By:  Pres.
Secretary President

1430
056

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 4

STATE OF COLORADO

Case No. W-130(78)

file # W-639

FILED
IN THE DISTRICT COURT
WATER DISTRICT #4

OCT 30 1978

Kay Phillips
DEPUTY CLERK

By _____ DEPUTY

IN THE MATTER OF THE APPLICATION FOR)
WATER RIGHTS OF THE CITY OF GRAND)
JUNCTION, COLORADO, IN THE GUNNISON)
RIVER OR ITS TRIBUTARIES; TRIBUTARY)
INVOLVED: GUNNISON RIVER PIPELINE,)
IN MESA COUNTY.)

RULING OF WATER REFEREE

The applicant, the City of Grand Junction, Colorado, a municipal corporation, c/o its attorney, D. J. Dufford, Dufford, Williams and Milburn, 537 Road Avenue, P.O. Box 2188, Grand Junction, Colorado 81501, requests a finding of reasonable diligence on the Gunnison River Pipeline, Conditional Priority No. 949, in old Water District No. 42. Date of filing: May 31, 1978.

No opposition has been filed.

FINDING OF FACT

The name of the structure with respect to which this application is filed is the GRAND JUNCTION-GUNNISON RIVER PIPELINE.

The headgate for diversion is located on the west bank of the Gunnison River from which the pipeline derives its supply of water, at a point from which the North Quarter Corner of Section 35, Township 1 South, Range 1 West, Ute Meridian, bears North 10°13' East a distance of 1,843.53 feet.

The carrying capacity of the entire pipeline system, when completed, will be 120 cubic feet of water per second of time and will consist of one or more parallel pipelines, all of which will be ten or more inches in diameter. The length of the pipeline or pipelines will be about 3,153.2 feet.

A filing map and statement of the pipeline was approved and filed with the State Engineer of Colorado on March 8, 1957.

In Civil Proceeding No. 8303, a supplemental adjudication proceeding conducted in the District Court of Mesa County, Colorado, the District Court of Mesa County awarded to the Grand Junction-Gunnison River Pipeline a conditional decree with Priority No. 949.

The city is a municipal corporation which owns and operates a municipal water supply and distribution system for the benefit of the inhabitants of the City and some areas outside the city of Grand Junction. The city is experiencing a steady growth in population and industry which presently use, or will use, water supplied from the city's domestic and industrial water supply system.

By ruling dated October 31, 1974, the Water Referee for Water Division No. 4 determined that the City was entitled to an absolute decree for 6.8 c.f.s. with priority date of March 8, 1957. In the same ruling, the City was directed to file additional an application for reasonable diligence in July, 1978.

Since July 1, 1977, the City has increased the diversion capacity of the pump station and related facility for the Grand Junction-Gunnison River Pipeline to the extent that the pump station will now divert 18.6 c.f.s.

Since July 1, 1977, the city has expended the sum of \$61,978.97, to increase the pumping capacity of its pump station and related facilities on the Gunnison River.

As a result of the expenditures referred to in the preceding paragraph and the increased capacity of its pumping plant and transmission works on the Gunnison River, the City is entitled to an absolute decree for an additional 11.8 c.f.s. and also entitled to a determination that the remainder of its conditional priority be continued in good standing for an additional period of time.

Therefore, the City requests the Court to determine that it is entitled to an absolute priority of 11.8 c.f.s. and a finding that the City is proceeding with diligence to perfect the remainder of the water right involved in this application.

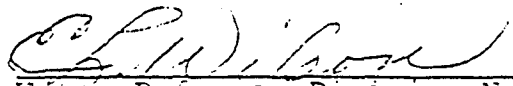
R U L I N G

IT IS THE RULING OF THE REFEREE that reasonable diligence has been shown and that a portion of the Conditional Decree, Priority No. 949 has been completed and that said priority is APPROVED and GRANTED an ABSOLUTE DECREE not to exceed 11.8 c.f.s. of water for domestic, industrial and other municipal purposes as of its original priority date March 8, 1957 and FURTHER that the balance of the water contained in said decree is to be continued on CONDITIONAL STATUS.

During the month of October, 1982, and every four years thereafter until the right is decreed final, the owner or user thereof, if he desires to maintain the same, shall file an Application for Quadrennial Finding of Reasonable Diligence with the Water Clerk of this Court.

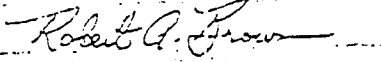
DATED 10-30-78

E. L. WILSON


Water Referee, Division No. 4

No person was filed in this matter.
The court is hereby notified in accordance
with the rules of the court that the
court is hereby notified in accordance with the
rules of the court.

11-30-78



130 + 131
IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 4

STATE OF COLORADO

Case No. W-130(74)

IN THE MATTER OF THE APPLICATION FOR WATER)
RIGHTS OF THE CITY OF GRAND JUNCTION,)
COLORADO, IN THE GUNNISON RIVER OR ITS)
TRIBUTARIES; TRIBUTARY INVOLVED: GUNNISON) RULING OF REFEREE
RIVER PIPELINE, IN THE COUNTY OF MESA)
)

The applicant, the City of Grand Junction, Colorado, a municipal corporation, c/o its attorney, D. J. Dufford, Dufford, Williams and Milburn, 537 Road Avenue, P. O. Box 2188, Grand Junction, Colorado 81501, requests a finding of reasonable diligence on the Gunnison River Pipeline, Conditional Priority No. 949, in old Water District No. 42. Filed May 31, 1974.

FINDING OF FACT

The name of the structure with respect to which this application is filed is the Grand Junction-Gunnison River Pipeline.

The headgate for diversion is located on the west bank of the Gunnison River from which the pipeline derives its supply of water, at a point from which the North Quarter Corner of Section 35, Township 1 South, Range 1 West, Ute Meridian, bears North 10° 13' East a distance of 1843.53 feet.

The carrying capacity of the entire pipeline system, when completed, will be 120 cubic feet of water per second of time and will consist of one or more parallel pipelines, all of which will be ten or more inches in diameter. The length of the pipeline or pipelines will be about 3,153.2 feet.

A filing map and statement of the pipeline was approved and filed with the State Engineer of Colorado on March 8, 1957.

In Civil Proceeding No. 8303 a supplemental adjudication proceeding conducted in the District Court of Mesa County, Colorado, the District Court of Mesa County awarded to the Grand Junction-Gunnison River Pipeline a conditional decree with Priority No. 949.

The city is a municipal corporation which owns and operates a municipal water supply and distribution system for the benefit of the inhabitants of the City and some areas outside the city of Grand Junction. The city is experiencing a steady growth in population and industry which presently use, or will use, water supplied from the city's domestic and industrial water supply system.

In connection with the enlargement and growth of its supply and distribution system, the city, during the past six years, has constructed water systems improvements in the amount of 2.2 million dollars. These improvements include a new 16-million gallon per day water treatment plant, two 10-million gallon steel potable water reservoirs, a new 24-inch diameter transmission main from the new treatment plant across the Colorado River to the city, a 7-million gallon per day raw water pumping station and cleaning and cement mortar lining of one of the two transmission lines from the city's raw water supply in the Kanabah Creek area and other water feeder mains within the city, all of which is to process the raw water supply obtained from Kanabah Creek and the Gunnison River.

During the past two-year period, the city has installed two electric pumps at the site of the pipeline on the Gunnison River. Through these pumps, the city has diverted 6.8 cubic feet of water per second of time, which water has been piped from the pumping plant on the Gunnison River to the city's water treatment facility, where it has been processed and used beneficially

for domestic, industrial and other municipal uses. The city diverted water from the Gunnison River through the pumping system described above on or prior to March 1, 1974.

The city will periodically or constantly, as required, divert not less than 6.9 cubic feet of water per second of time from the Gunnison River through the pumping facilities and pipeline installations referred to above.

The city expended in excess of \$230,000.00 to install the pumping system and pipelines which are now installed at the point of diversion on the Gunnison River.

No opposition has been filed.

R U L I N G

IT IS THE RULING OF THE REFEREE that reasonable diligence has been shown and that a portion of the conditional decree has been satisfied, and that the Gunnison River Pipeline Conditional Priority No. 949, is APPROVED AND GRANTED an ABSOLUTE DECREE not to exceed 6.8 c.f.s. of water for domestic, industrial and other municipal purposes, as of date of March 2, 1957;

AND FURTHER, that the balance of the water contained in said decree is to be continued on conditional status.

During the month of July, 1978, and every four years thereafter until the right is decreed final, the owner or user thereof, if it desires to maintain the same, shall file an application for quadrennial finding of reasonable diligence with the Water Clerk of this Court.

DATED Oct. 31, 1974

E. L. WILSON

E. L. Wilson
Water Referee, Division No. 4

11-21-74
John C. Brown

WATER FILE
No. 166

THE GRAND JUNCTION-GUNNISON RIVER PIPELINE

DITCH, OR PIPELINE, NO. 597

Priority No. 949, CONDITIONAL.

THE COURT FINDS:

That in this proceeding said ditch, or pipeline, is number 597, and it is entitled to Conditional Priority No. 949.

That the claimant thereof is the City of Grand Junction, Colorado, with address Grand Junction, Colorado.

That it is to be a pipeline for use for domestic, municipal and industrial purposes.

That it will derive its supply of water from the Gunnison River, in Water District No. 42.

That the headgate for said diversion is located at a point on the east bank of said Gunnison River, whence the $N\frac{1}{4}$ corner of Sec. 35, Twp. 1 S., R. 1 W., Ute Meridian, bears N. $10^{\circ} 13' E.$ 1843.53.

That said pipeline is proposed to consist of 2 parallel lines 3153.2 feet long, one 30 inches in diameter and one 48 inches in diameter, with a capacity of 120.00 cubic feet of water per second of time.

And the Court Further Finds from the evidence that work of construction was begun on said pipeline by survey on January 22, 1957, pursuant to the policy of said claimant adopted several years previous thereto to develop potential future water supplies for the long range requirements of the City of Grand Junction. That such long range requirements are naturally indefinite. However, an intensive study over a period of years of the growth potential of the City, indicates that, by reason of the probable development of the shale oil industry in the immediate future on a scale of great magnitude, and the associated and allied industries it would induce, that a population in the immediate vicinity of Grand Junction of anywhere from 150,000 to twice that might

reasonably expected. That to protect such probable future water requirements, the City has caused this survey to be made, and plat and statement thereof to be filed in the office of the State Engineer of Colorado on March 8, 1957.

That said diversion would be made by means of a pumping plant installed at the point of said diversion, on a sump below a filtration plant to be installed below the Redlands Water and Power Company dam.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that, subject to the several limitations and provisions in the preamble to this decree expressed, there be permitted to flow in said pipeline from said Gunnison River, for the uses aforesaid, and for the benefit of the parties lawfully entitled thereto, under and by virtue of appropriation by construction, diversion and beneficial use, and as Conditional Priority No. 949, so much water as will flow therein as proposed to be constructed, not to exceed 120.00 cubic feet per second of time, as of priority date January 22, 1957. CONDITIONED, however, upon the completion of said proposed pipeline, and the diversion of said water therethrough, and application thereof to beneficial use, as aforesaid, within the time and in the manner provided by law.

DYNAMIC A

A tract of land situated in portions of Section 19, Section 18, Section 17 and Section 20, all in Township 1 South, Range 1 West of the Ute Meridian being more particularly described as follows: Beginning at a point on the southerly line of said Section 18 whence the Southwest corner of said Section 18 bears South 89°32'21" West 450.00 feet, with all bearings contained herein relative to true North derived by observation of State Plane Coordinate Monuments No.'s 116 and 117;

thence along said southerly line North 89°32'21" East 1198.36 feet to the

Southwest corner of the E1/2SW1/4SE1/4SW1/4 of said Section 18; thence North 00°18'47" West 660.64 feet to the Northwest corner of said

E1/2SW1/4SE1/4SW1/4;

thence North 89°38'12" East 329.46 feet to the Southwest corner of the

NE1/4SE1/4SW1/4 of said Section 18;

thence North 00°19'53" West 660.08 feet to the Northwest corner of said NE1/4SE1/4SW1/4;

thence North 89°44'03" East 658.49 feet to the Northeast corner of SE1/4SW1/4 of said Section 18;

thence North 89°41'29" East 2633.76 feet to the Northeast corner of SE1/4SE1/4 of said Section 18;

thence South 89°44'59" East 1315.58 feet to the Northeast corner of SW1/4SW1/4 of said Section 17;

thence South 89°42'57" East 709.52 feet along the northerly line of the SE1/4SW1/4 of said Section 17 to the westerly line of the First Addition to the Mesa Grande Subdivision;

thence South 00°23'00" West 9.15 feet along said westerly line to the Southwest corner of said subdivision;

thence South 79°28'00" East 147.50 feet along the southerly line of said subdivision to the Northwest corner of the Brummett Parcel;

thence South 00°20'00" East 140.00 feet along the westerly line of said Brummett Parcel;

thence South 66°03'00" East 300.60 feet along the southerly line of said Brummett Parcel to the westerly right-of-way line of a roadway described in Document No. 801204 of the records of the Clerk and Recorder of Mesa County, Colorado;

thence along said right-of-way line the following courses:

South 16°12'00" East 22.60 feet;

thence 76.93 feet along the arc of a 104.12 foot radius curve to the right, which arc subtends a chord bearing South 04°58'00" West 75.19 feet;

thence South 26°08'00" West 3.90 feet;

thence 135.51 feet along the arc of a 395.84 foot radius curve to the right, which arc subtends a chord bearing South 35°56'27" West 134.85 feet to a point on the northerly line of a tract of

land described in Document No. 997320 of said Mesa County records;

thence North 70°40'01" West 804.16 feet along said northerly line;

thence South 10°27'59" West 510.00 feet along the westerly line of said tract of land;
thence South 78°59'01" East 472.50 feet along the southerly line of said tract of land;
thence South 59°19'14" West 536.25 feet;
thence South 33°19'43" West 527.01 feet;
thence South 78°04'01" West 667.42 feet;
thence South 58°12'11" West 495.34 feet;
thence South 41°55'21" West 592.70 feet;
thence South 65°16'12" West 536.17 feet;
thence West 611.56 feet to the Southeast corner of the NW1/4NE1/4 of said Section 19;
thence South 89°51'02" West 1310.95 feet to the Southwest corner of said NW1/4NE1/4;
thence South 01°16'08" West 1292.04 feet to the Southeast corner of the SE1/4NW1/4 of said Section 19;
thence South 89°46'34" West 1286.37 feet along the southerly line of said SE1/4NW1/4 to a point;
thence North 00°12'03" West 962.30 feet;
thence North 33°18'43" West 972.34 feet;
thence South 89°32'56" West 300.00 feet;
thence North 00°27'09" West 800.00 feet to the point of beginning;

EXCEPT a tract of land located in a part of the SE1/4SW1/4 of Section 17, Township 1 South, Range 1 West of the Ute Meridian, being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 17;

thence South 89°53'15" West along the south line of the SE1/4 SW1/4 of said

Section 17 a distance of 508.22 feet;

thence South 14°23'00" West 6.86 feet;

thence South 29°21'00" West 200.00 feet;

thence North 68°41'19" West 665.97 feet;

thence North 10°27'59" East 1030 feet to the TRUE POINT OF

BEGINNING;

thence continuing North 10°27'59" East 247.17 feet to a point on the north line of the SE1/4SW1/4 of said Section 17;

thence South 89°42'57" East along said north line of the SE1/4SW1/4 of Section 17 a distance of 374.50 feet;

thence South 00°23'00" West 9.15 feet;

thence South 79°28'00" East 147.50 feet;

thence South 00°20'00" East 140.00 feet;

thence South 66°03'00" East 300.60 feet;

thence South 16°12'00" East 22.60 feet;

thence along the arc of a curve to the right whose radius is 104.12 feet and whose long chord bears South 04°58'00" West 75.19 feet;

thence South 26°08'00" West 3.90 feet;

thence along the arc of a curve to the right whose radius is 395.84 feet and whose long chord bears South 35°56'27" West 134.65 feet;

thence North 70°40'01" West 804.16 feet to the TRUE POINT OF BEGINNING;

AND EXCEPT a parcel of land located in a part of the SE1/4 SW1/4 of Section 17;

Township 1 South, Range 1 West of the Ute Meridian, being more particularly described as follows:

Commencing at the South Quarter Corner of said Section 17;

thence South 89°53'15" West along the south line of the SE1/4 SW1/4 of said Section 17 a distance of 508.22 feet;

thence South 14°23'00" West 6.86 feet;

thence South 29°21'00" West 200.00 feet;

thence North 68°41'19" West 665.88 feet to the TRUE POINT OF BEGINNING;

thence continuing North 68°41'19" West 0.09 feet;

thence North 10°27'59" East 520.00 feet;

thence South 78°59'01" East 472.50 feet;

thence South 59°19'14" West 635.25 feet;

thence South 33°19'43" West 176.51 feet to the TRUE POINT OF BEGINNING.

NAME

SIGNATURE

ADDRESS

DATE