

Contract No. 09-LA-40-0160

Parcel Nos. SFC-5(P) and SFC-5(T)

UNITED STATES  
DEPARTMENT OF THE INTERIOR

SPANISH FORK PROVO CANYON PIPELINE – REACH 3  
UTAH LAKE DRAINAGE BASIN WATER DELIVERY SYSTEM  
CENTRAL UTAH PROJECT COMPLETION ACT  
CONTRACT AND GRANT OF EASEMENT

THIS CONTRACT AND GRANT OF EASEMENT, made this 31st day of August, 2009, pursuant to the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, all of which acts are commonly known and referred to as Reclamation Laws, and the Colorado River Basin Project Act (Act of September 30, 1968, Public Law 90-537, 82 Stat. 885), Sec. 501 (a), and the Reclamation Projects Authorization and Adjustment Act of 1992, P.L. 102-575, as amended, among the UNITED STATES OF AMERICA, its successors and assigns, hereinafter referred to as the United States, and ENSIGN-BICKFORD COMPANY, a Connecticut Corporation, hereinafter referred to as the Grantor,

WITNESSETH, That for and in consideration of the mutual agreements herein contained, the parties hereto do covenant and agree as follows:

1. The Grantor shall sell and by this Contract and Grant of Easement, with covenants of warranty, grant to the United States, free of lien or encumbrance, except as otherwise provided herein, the following described interests in real property situated in the County of Utah, State of Utah, to-wit:

Perpetual easements to construct, reconstruct, operate and maintain underground water pipeline or pipelines, appurtenant structures, on, over, under, or across the following-described land:

Two parcels of land situated in Sections Thirty-four (34) and Thirty-five (35), Township Eight (8) South, Range Three (3) East, Salt Lake Base and Meridian, across the following described land:

Parcel No. SFC-5 (P) (Perpetual Easement)

Parcel One

Beginning at a point in the northeasterly boundary fence of US Highway 6, which point is located Six Hundred Fifty-nine (659.00) feet North and One Hundred Twenty-five and Twenty-four Hundredths (125.24) feet East of the Southeast Corner of Section Thirty-four (34), Township Eight (8) South, Range Three (3) East, Salt Lake Base and Meridian; thence along said northeasterly boundary fence North  $35^{\circ}19'56''$  West Five Hundred Twenty and Thirty-seven Hundredths (520.37) feet; thence Forty-two and Sixty-five Hundredths (42.65) feet along the arc of a Nine Hundred Seventy-five (975.00) foot radius curve to the left, chord bears North  $34^{\circ}07'45''$  West Forty-two and Sixty-five Hundredths (42.65) feet; thence continuing along said northeasterly boundary fence North  $35^{\circ}22'24''$  West Two Thousand Nine Hundred Ninety-eight and Seventy-six Thousandths (2998.76) feet to a point in the easterly boundary of the Mapleton Springville Lateral right of way; thence along said easterly boundary Sixty-one and Sixty-six Hundredths (61.66) feet along the arc of a Four Hundred Ninety (490.00) foot radius curve to the left, chord bears North  $18^{\circ}51'42''$  East Sixty-one and Sixty-two Hundredths (61.62) feet; thence leaving said easterly boundary South  $35^{\circ}22'24''$  East Three Thousand Thirty-four and Seventy-seven Hundredths (3034.77) feet; thence One Hundred Two and Sixty Hundredths (102.60) feet along the arc of a One Thousand Twenty-five (1025.00) foot radius curve to the right, chord bears South  $32^{\circ}30'53''$  East One Hundred Two and Fifty-six Hundredths (102.56) feet; thence South  $29^{\circ}38'50''$  East Four Hundred Sixty-two and Ninety Hundredths (462.90) feet to the point of beginning.

AND ALSO;

Parcel Three

Beginning at a point Eight Hundred Twenty-seven and Forty-three Hundredths (827.43 ) feet South and Seven and Eighty-two Hundredths (7.82) feet West of the South Quarter Corner of Section Twenty-seven (27), Township Eight (8) South, Range Three (3) East, Salt Lake Base and Meridian; thence North  $32^{\circ}28'46''$  West One Hundred Fifty-two and Fifteen Hundredths (152.15) feet; thence North  $37^{\circ}40'51''$  West One Hundred Eighteen and Seventy-one Hundredths (118.71) feet to the easterly boundary fence of SR-89; thence along said boundary fence North  $24^{\circ}56'19''$  West One Hundred Sixty-five and Twelve Hundredths (165.12) feet; thence continuing along said boundary fence North  $25^{\circ}17'11''$  West One Hundred Eighty and Thirty-three Hundredths (180.33) feet; thence continuing along said boundary fence North  $15^{\circ}57'35''$  West Sixty-one

and Seventy Hundredths (61.70) feet; thence leaving said boundary fence South  $25^{\circ}17'11''$  East Two Hundred Forty-one and Twenty-five Hundredths (241.25) feet; thence South  $24^{\circ}56'19''$  East Sixty-seven and Fifty-three Hundredths (67.53) feet; thence One Hundred Seventy-seven and Seventy-two Hundredths (177.72) feet along the arc of a Nine Hundred Seventy-five (975.00) radius curve to the left, chord bears South  $30^{\circ}09'38''$  East One Hundred Seventy-seven and Forty-eight Hundredths (177.48) feet; thence South  $35^{\circ}22'57''$  East One Hundred Sixty-eight and One Hundredth (168.01) feet; thence South  $00^{\circ}13'30''$  West Twenty-four and Sixty Hundredths (24.60) feet to the point of beginning.

Parcel No. SFC-5 (P) contains a total of Three and Ninety-seven Hundredths (3.97) acres more or less.

AND ALSO;

Two temporary easement for construction purposes during construction of the pipeline and appurtenant structures, on over, and across the following described land:

Two parcels of land situated in Sections thirty-four (34) and Thirty-five (35), Township Eight (8) South, Range Three (3) East, Salt Lake Base and Meridian, across the following described land:

Parcel No. SFC-5 (T) (Temporary Easement)

Parcel Two

Beginning at a point Three Hundred Eighty and Twenty-seven Hundredths (380.27) feet North and Three Hundred Twenty-six and Fifty-four Hundredths (326.54) feet East of the Southeast Corner of Section Thirty-four (34), Township Eight (8) South, Range Three (3) East, Salt Lake Base and Meridian; thence North  $35^{\circ}50'15''$  West Three Hundred Forty-three and Eighty-two Hundredths (342.82) feet; thence North  $29^{\circ}38'50''$  West Four Hundred Sixty-two and Ninety Hundredths (462.90) feet; thence One Hundred Two and Sixty Hundredths (102.60) feet along the arc of a One Thousand Twenty-five Hundred (1025.00) foot radius curve to the left, chord bears North  $32^{\circ}30'53''$  West One Hundred Two and Fifty-six Hundredths (102.56) feet; thence North  $35^{\circ}22'24''$  West Three Thousand Thirty-four and Seventy-seven Hundredths (3034.77) feet; thence Ninety-nine and Ninety-five Hundredths (99.95) feet along the arc of a Five Hundred Seventy-six and Sixty-nine Hundredths (576.69) foot radius curve to the left, chord bears North  $09^{\circ}09'08''$  East Ninety-nine and Eighty-three Hundredths (99.83) feet; thence South  $35^{\circ}22'24''$  East Two Thousand Nine Hundred Twenty and Fifty-seven Hundredths (2920.57) feet; thence South  $87^{\circ}16'31''$  East Thirty-nine and Eighty-one Hundredths (39.81) feet; thence South;  $35^{\circ}22'33''$  East One Thousand Seventy-three and Forty-two Hundredths (1073.42) feet; thence South  $56^{\circ}50'25''$  West One Hundred Fifty (150.00) feet to the point of beginning.

ALSO:

Parcel Four

Beginning at a point Eight Hundred Two and Eighty-four Hundredths (802.84) feet South and Seven and Seventy-two Hundredths (7.72) feet West of the South Quarter Corner of Section Twenty-seven (27), Township Eight (8) South, Range Three (3) East, Salt Lake Base and Meridian; thence North  $35^{\circ}22'57''$  West One Hundred Sixty-eight and One Hundredths (168.01) feet; thence One Hundred Seventy-seven and Seventy-two Hundredths (177.72) feet along the arc of a Nine Hundred Seventy-five (975.00) foot radius curve to the right, chord bears North  $30^{\circ}09'38''$  West One Hundred Seventy-seven and Forty-eight Hundredths (177.48) feet; thence North  $24^{\circ}56'19''$  West Sixty-seven and Fifty-three Hundredths (67.53) feet; thence North  $25^{\circ}17'11''$  West Two Hundred Forty-one and Twenty-five Hundredths (241.25) feet; thence North  $16^{\circ}46'34''$  West One Hundred Twenty-five and Sixty-two Hundredths (125.62) feet; thence South  $87^{\circ}33'00''$  East Seventy-four and Thirteen Hundredths (74.13) feet; thence South  $16^{\circ}46'34''$  East Ninety-six (96.00) feet; thence South  $25^{\circ}17'11''$  East Two Hundred Thirty-six and Twenty-five Hundredths (236.25) feet; thence South  $24^{\circ}56'19''$  East Sixty-seven and Seventy-four Hundredths (67.74) feet; thence One Hundred Sixty-four and Ninety-six Hundredths (164.96) feet along the arc of a Nine Hundred Five (905.00) foot radius curve to the left, chord bears South  $30^{\circ}09'38''$  East One Hundred Sixty-four and Seventy-four Hundredths (164.74) feet; thence South  $35^{\circ}22'57''$  East One Hundred Twenty-three and Thirty-two Hundredths (123.32) feet; thence South  $83^{\circ}23'00''$  West Thirty-one and Eleven Hundredths (31.11) feet; thence South  $00^{\circ}13'30''$  West Seventy-three and Thirty-eight Hundredths 73.38) feet to the point of beginning.

Parcel No. SFC-5 (T) contains a total of nine and two hundredths (9.02) acres, more or less.

1a. The Grantor warrants that Grantor is the owner of the real property whereon the above-described easement lies.

1b. The Grantor, for himself, his successors and assigns, agrees that, within the perpetual easement area described herein they shall not: (i) erect, construct, or permit to be constructed, any permanent building, structure, or improvement of any kind (except as may be approved or defined hereafter), nor shall Grantor construct or permit others to construct or install any fences, hard surfaced areas, or other permanent or temporary obstructions or improvements within the boundaries of the easement area that might interfere with the United States' ability to gain access to the easement for operation, maintenance, repair or replacement purposes unless the Grantor first obtains consent in writing from the United States for such construction or installation, including access across the easement area to facilitate such construction or installation, which consent shall not be unreasonably withheld. The United States shall grant or deny such consent within 30 days of receipt of the request from Grantor. If the United States approves the

requested access for construction or installation, Grantor shall not be required to pay any cost to the United States for the portion of the easement affected by the access. Any such obstruction installed or permitted to be constructed, installed, or maintained within the boundaries of the easement area shall be removed at Grantor's sole expense; (ii) plant any tree or shrubs on any portion of the easement, nor dig or drill any holes or wells, nor increase or decrease the ground elevations existing at the time this document is executed, on all or any portion of the easement; (iii) remove materials from the area without the approval of the United States, its agents or assigns; (iv) damage to the road or appurtenant structures will be repaired by the Grantor, at the sole cost of the Grantor.

1c. In the event that Grantor, its heirs, successors, or assigns, places or permits to be placed, any encroachment on any portion of the easement, the United States shall have the right to remove the encroachment after five (5) days written notice to Grantor, and Grantor, its heirs, or successors, or assigns, agrees to pay all costs incurred by the United States in removing the encroachment. All costs shall earn interest at the rates set by Utah law for interest on judgments until Grantor has reimbursed the United States for the cost of removal of any such encroachment. Any damage to the United States' property or appurtenant structures caused by the Grantor's use or encroachment of the easement shall be repaired at the sole cost and expense of the Grantor.

1d. The Grantor, for himself, his successors and assigns, understands and agrees that any alteration, modification, change, or placement of improvements, by Grantor or any third party, within the above-described easement area, subsequent to the date of execution of this Contract and Grant of Easement, shall be made at Grantor's own risk, and Grantor hereby releases the United States from liability for any and all loss or damage of every description or kind whatsoever which is caused by or as a direct result of such alteration, modification, change, or placement of improvements within said area; provided, however, that nothing in this Article shall be construed as releasing the United States from liability for its own negligence or the negligence of its employees, agents or contractors.

1e. It is understood and agreed that the rights to be granted to the United States, as described in Article 1 hereof, shall be free from lien or encumbrance except: (i) coal, oil, gas, and other mineral rights reserved to or outstanding in Grantor and/or in third parties as of the date of this contract; (ii) rights-of-way for roads, railroads, telephone lines, transmission lines, ditches, conduits, or pipelines, on, over, under, or across said lands in existence on such date; and (iii) court liens, judgments or financial encumbrances, such as Deeds of Trust, for which a formal consent has been obtained from the court or the lien holder.

1f. It is understood and agreed that the United States or its assigns shall have the right to install gates where the pipeline or access road crosses existing fences, and also to install temporary construction fencing during construction.

1g. It is understood and agreed that the temporary easement herein granted shall terminate two (2) years from the date of this contract or at the end of construction, whichever comes first.

1h. The United States, at its sole cost and expense, will: (i) replace any boundary fence damaged during construction with a fence of similar construction and materials. The United States may, in its sole discretion, erect, maintain, or use gates in all fences which now cross or later may cross any portion of the easement(s) to enable the United States to take equipment along the easement(s) to perform required maintenance and repair. Grantor may lock any such gate to prohibit the public from unlawful access to the easement area, but Grantor shall provide the United States a key to any such lock at Grantor's expense. The United States shall also be entitled to trim, cut, or clear away trees, brush, or other vegetation or flora from time to time as the United States determines in its sole discretion without additional compensation; (ii) grade to reasonably even and regular surfaces, all fills, cuts, and waste banks within the easement area; (iii) replace topsoil within the easement area.

1i. The United States also agrees that if damage occurs to existing driveways or other landscaping within the easement area as a result of and during construction, of said Spanish Fork Canyon Pipeline and appurtenant structures, (i) payment will be made by the United States to the owner thereof on the basis of an appraisal approved by the United States, or (ii) the United States will, at its option, make replacement or repair with material of like kind and equal quality.

2. The acquiring federal agency is the Department of the Interior represented by the officer executing this Contract, his duly appointed successor, or his duly authorized representative.

3. The United States shall purchase said easement on the terms herein expressed, and on execution and delivery of this Contract and Grant of Easement, and approval by the proper officials of the United States, it shall cause to be paid to the Grantor as full purchase price the sum of Seventy-eight Thousand dollars (\$78,000.00) which will be sent directly to a financial institution by Direct Deposit/Electronic Funds Transfer.

4. The Grantor shall, at his own cost, procure and have recorded all assurances of title and affidavits which the Grantor may be advised by the United States are necessary and proper to show in the Grantor complete fee simple unencumbered title to the property whereon the above-described easement lies, subject only to the interests, liens, or encumbrances expressly provided herein. Abstracts or certificates of title or title insurance will be procured by the United States at its expense unless otherwise provided in this Contract and Grant of Easement. The expense of recording this Contract and Grant of Easement shall be borne by the United States.

The United States shall reimburse the Grantor in an amount deemed by the United States to be fair and reasonable for the following expenses incurred by the Grantor:

(a) Recording fees, transfer taxes and similar expenses incidental to granting the easement described herein to the United States; and

(b) Penalty cost for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering said real property.

The Grantor agrees to furnish the United States evidence that these items of expenses have been billed to and paid by him and further agrees that the United States alone shall determine the fairness and reasonableness of the expenses to be paid.

5. In the event that liens or encumbrances other than those expressly provided herein, do exist, the United States may, at its option, remove any and all such outstanding liens and encumbrances by reserving from the purchase price herein set forth the necessary amount and discharge same with the money so reserved, but this provision shall not be construed to authorize the incurrence of any lien or encumbrance as against this Contract and Grant of Easement, nor as an assumption of any lien or encumbrance by the United States.

6. It is agreed that, at its election, the United States may draw its check in payment for granting the above-described easement to the order of the title contractor or closing agent, and the Grantor hereby authorizes the said contractor or agent to cash the check and make disbursements out of the proceeds to satisfy and pay any taxes, assessments, and encumbrances which are a lien against the real estate; to pay any State and local recording or transfer taxes where required, and any other expenses incident to the closing of title which are properly chargeable to the Grantor; and to remit the balance of the proceeds to Grantor; together with an itemized statement of the payments made on Grantor's behalf.

7. This Contract and Grant of Easement shall become effective to bind the United States to purchase said easement immediately on its execution by the contracting officer acting under the authority of the Secretary of the Interior and shall inure to the benefit of and be binding on the heirs, executors, administrators and assigns of the Grantor, and the assigns of the United States.

8. After execution of this contract by the United States, the proper officers, agents, and assigns of the United States shall, at all times, have unrestricted access to said easements for any purpose including the construction, reconstruction, operation, or maintenance of the Spanish Fork Canyon Pipeline, free of any claim for damage or compensation on the part of the Grantor, except as otherwise provided for in this contract. Notwithstanding the foregoing, the United States agrees to compensate the Grantor for any damage to Grantor's real and personal property outside of the easement areas resulting from or arising out of the construction, reconstruction, operation or maintenance of the Spanish Fork Canyon Pipeline.

9. If the Secretary of the Interior determines that the title to the easement should

be acquired by the United States by judicial procedures, either to procure a safe title or to obtain title more quickly, then the award to be made for the interest acquired in said lands in said proceedings shall be the same amount as the purchase price herein provided.

10. The Grantor warrants that the Grantor has not employed any person to solicit or secure this Contract and Grant of Easement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the United States the right to annul the Contract and Grant of Easement, or, in its discretion, to deduct from the contract price or consideration the amount of such commission, percentage, brokerage, or contingent fees. This warranty shall not apply to commissions payable by contractors upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Grantor for the purpose of securing business with others than the United States.

11. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Contract and Grant of Easement, or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this contract if made with a corporation or company for its general benefit.

12. Time is of the essence in the performance of this Contract and Grant of Easement.

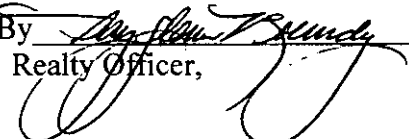
13. The terms of this Contract and Grant of Easement will survive the grant provided for herein.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above-written.

APPROVED

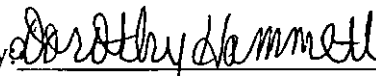
  
\_\_\_\_\_  
Regional Solicitor's Office

THE UNITED STATES OF AMERICA

By:   
\_\_\_\_\_  
Realty Officer,

THE ENSIGN-BICKFORD COMPANY

By:   
\_\_\_\_\_  
Title Treasurer, Grantor

By:   
\_\_\_\_\_  
Title Secretary, Grantor

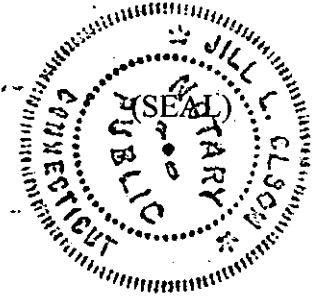


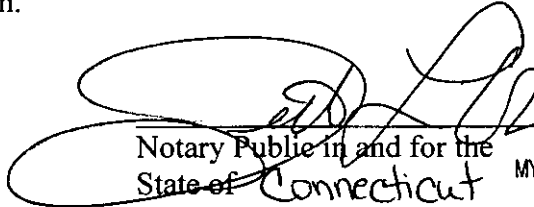
ACKNOWLEDGMENT

State of CT,  
County of Hartford ) ss. Simsbury

On this 31<sup>st</sup> day August, 2009, personally appeared before me Dorothy T. Hammett and Denise M. Grant, who, being by me duly sworn, did say, each for themselves, that he/she, is Secretary the and that he/she, is the Treasurer of, the Corporation, and that the within and foregoing instrument was signed in behalf of said Corporation by authority of a Special Meeting of its Board of Directors, and said Dorothy T. Hammett and Denise M. Grant each duly acknowledged to me that said Corporation executed the same and that the seal affixed is the seal of said Corporation.

IN WITNESS WHEREOF, I have hereunto set my had and affixed by official seal the day and year first above written.



  
Notary Public in and for the State of Connecticut  
Residing at \_\_\_\_\_  
JILL L. OLSON  
NOTARY PUBLIC  
MY COMMISSION EXPIRES 9/30/2012