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BOOK 1659 PAGE 213

Recorded OCT 22 1959 at 9:06 a. m.
Request of UNION PACIFIC R.R.
Fee Paid, Nellie M. Jack,
Recorder, Salt Lake County, Utah
\$ 8.30 By *R. M. Jensen*
Ref. _____

C O N T R A C T

L. D. No. 17791

Audit No. _____

Between

OREGON SHORT LINE RAILROAD COMPANY,
UNION PACIFIC RAILROAD COMPANY

and

UTAH CONSTRUCTION & MINING CO.

Gas Pipe Line Crossing Under Track #1

at

Murray, Utah

DUPLICATE ORIGINAL - OSL-UP COPY

THIS AGREEMENT, made and entered into this ^{12th} day ^{September} 19 59, by and between ----- OREGON SHORT LINE RAILROAD COMPANY, a corporation of the State of Utah, and its Lessee, UNION PACIFIC RAILROAD COMPANY, a corporation of the State of Utah, (hereinafter collectively called "Railroad Company"), parties of the first part, and

UTAH CONSTRUCTION & MINING CO., a corporation of the State of Delaware,

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

WHEREAS the Licensee desires to construct and thereafter maintain and operate a gas pipe line (hereinafter called "pipe line"), extending underground across the right of way and underneath the roadbed and track of the Railroad Company at

Murray, in Salt Lake County, Utah,

in the location described as follows:

Said pipe line is to cross center line of Track No. 1 at an angle of 70° to the right at Engineer's Station 6 plus 73, which is 275 feet perpendicularly distant westerly from the center line of main track at Engineer's Station 2296 + 28, which is 4,785.5 feet southerly, measured along said center line of track from its intersection with the North line of Section 1, Township 2 South, Range 1 West, Salt Lake Meridian, substantially in the location shown in yellow on the attached print, dated August 28, 1959, marked Exhibit "A", and hereby made a part hereof.

IT IS THEREFORE AGREED, by and between the parties hereto, as follows:

1. RAILROAD COMPANY GRANTS RIGHT TO LICENSEE:

For and in consideration of the covenants and conditions hereinafter mentioned to be by the Licensee kept, observed and performed, and upon the terms and conditions hereinafter stated, the Railroad Company hereby grants unto the Licensee the right

to construct and thereafter, during the term hereof, to maintain and operate said pipe line in the location hereinbefore described; it being hereby stipulated that a waiver by the Railroad Company of any breach of any such conditions, covenants and agreements shall in no way impair the right of the Railroad Company to avail itself of any subsequent breach thereof.

The foregoing grant 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 railroad tracks, telegraph, telephone, signal or other pole and wire lines, pipe lines and other facilities upon, along or across any or all parts of said right of way, all or any of which may be freely done at any time or times by the Railroad Company without liability to the Licensee or to any other party for compensation or damages.

The foregoing grant 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 renewals and extensions of the same.

2. CONSTRUCTION, MAINTENANCE AND OPERATION:

The pipe line shall be constructed of continuous steel pipe, having an internal diameter of **TWO (2)** inches, encased as shown on Exhibit "A," and said pipe line shall be constructed, maintained, operated, repaired and renewed by the Licensee in strict conformity with Specification C.S. 1029 of the Union Pacific Railroad Company, adopted November, 1949, which is hereby, by reference, made a part hereof.

The Licensee shall keep and maintain the soil over said pipe line thoroughly compacted and the grade even with the adjacent surface of the ground.

All work performed on said right of way of the Railroad Company in connection with the construction, maintenance, repair, renewal or reconstruction of the pipe line shall be done under the supervision of, and in a manner satisfactory to, the Railroad Company.

Prior to the commencement of any work in connection with the pipe line (whether of construction, maintenance, repair, renewal, modification, relocation, reconstruction or removal), the Licensee shall submit to the Railroad Company plans setting out the method and manner of handling the work and shall not proceed with the work until such plans shall have been approved by the Division Engineer of the Railroad Company and then only under the supervision of said Division Engineer or his representative. The Railroad Company shall have the right, if it so elects, to provide such support as it may deem necessary for the safety of its track or tracks during the time such work is being done and, in the event the Railroad Company provides such support, the Licensee shall pay to the Railroad Company, within fifteen days after bills shall have been rendered therefor, all expense incurred by the Railroad Company in connection therewith, which said expense shall include all assignable costs plus ten per cent (10%) to cover elements of expense not capable of exact ascertainment.

3. NOTICE OF COMMENCEMENT OF WORK:

The Licensee shall notify the Railroad Company at least forty-eight hours in advance of the commencement of any work upon said right of way in connection with the maintenance, repair, renewal or reconstruction of the pipe line; PROVIDED, however, that such advance notice shall not be required in cases of emergency where it is necessary for the Licensee to enter upon said right of way for the purpose of stopping or repairing leaks.

4. LICENSEE TO BEAR ENTIRE EXPENSE:

The Licensee shall bear the entire cost and expense incurred in connection with the construction, maintenance, repair, renewal and any and all modification, revision, relocation, removal or reconstruction of the pipe line, including any and all expense

which may be incurred by the Railroad Company in connection therewith for supervision, inspection or otherwise.

5. MODIFICATION OR RELOCATION OF PIPE LINE:

The Licensee shall, at its sole expense, make any and all modifications or changes in the pipe line, or move all or any part of said pipe line to such new location as may be required by the Railroad Company at any time in connection with the construction, maintenance, repair, renewal, use, operation, change, modification or relocation of railroad tracks, telegraph, telephone, signal or other pole and wire lines, pipe lines and other facilities of the Railroad Company.

All the terms, conditions and stipulations herein expressed with reference to the construction, maintenance, repair and renewal of said pipe line in the location hereinbefore described shall apply to the pipe line as modified, changed or relocated within the contemplation of this section.

6. PIPE LINE NOT TO INTERFERE WITH OPERATION OF RAILROAD:

The pipe line shall be constructed and at all times maintained, repaired, renewed and operated in such a manner as to cause no interference whatsoever with the constant, continuous and uninterrupted use of the tracks, property and premises of the Railroad Company, and nothing shall be done, or suffered to be done, by the Licensee at any time that would in any manner impair the safety thereof.

7. CLAIMS AND LIENS FOR LABOR AND MATERIAL:

The Licensee shall fully pay for all materials joined or affixed to and labor performed upon said right of way in connection with the construction, maintenance, repair, renewal or reconstruction of the pipe line, and shall not permit or suffer any mechanic's or materialmen's lien of any kind or nature to be enforced against said right of way for any work done or materials furnished thereon at the instance or request or on behalf of the Licensee; and the Licensee shall indemnify and hold harmless the Railroad Company from and against any and all liens, claims, demands, costs and expenses of whatsoever nature in any way connected with or growing out of such work done, labor performed, or materials furnished.

The Licensee shall promptly pay or discharge all taxes, rates, charges and assessments levied upon, in respect to, or on account of the pipe line, so as to prevent the same becoming a charge or lien upon said right of way, or any other property of the Railroad Company, and so that the taxes, charges and assessments levied upon or in respect to 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 the Licensee's property upon said right of way as compared with the entire value of said right of way.

8. RESTORATION OF RAILROAD COMPANY'S PROPERTY:

In the event the Licensee shall in any manner move or disturb any property of the Railroad Company in connection with the construction, maintenance, repair, 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 property to the same condition as it was in before such 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 moving or disturbance of any property of the Railroad Company.

9. DISPOSAL OF RIGHT OF WAY:

In the event the Railroad Company shall dispose of any of its right of way upon which the pipe line is located, as herein provided, the license or permit herein granted, with respect to the portion or portions of the pipe line as may be located upon the right of way so disposed of, shall forthwith cease and determine.

10. LIABILITY:

The Licensee shall indemnify and hold harmless the Railroad Company from and against any and all liability, loss, damage, 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, loss 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), when 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 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 construction, maintenance, operation, repair, renewal, modification, reconstruction, revision, relocation or removal of said 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.

11. TERMINATION, ABANDONMENT OR DEFAULT:

Disuse of said 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 with respect to the pipe line so abandoned.

If the Licensee shall fail to keep and perform all or any of the covenants and agreements herein contained to be by the Licensee 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.

12. REMOVAL OF PIPE LINE OF LICENSEE:

Within ninety (90) days after the termination of this agreement with respect to any portion of the pipe line, the Licensee shall, at its sole expense, remove such portion of the pipe line and shall restore, to the satisfaction of the Railroad Company, said right of way to as good condition as it was in at the time of the construction of such 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. In the event of the removal of the pipe line or any portion thereof, 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 termination of this license with respect to same under the provisions of Section 9 hereof, in cases where the Licensee shall have made arrangements for the continuation of such pipe line with the grantee or grantees of the Railroad Company.

13. AGREEMENT NOT TO BE ASSIGNED:

The Licensee shall not sublet, in whole or in part, the rights hereby 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.

14. EFFECTIVE DATE — TERM:

This agreement shall be effective from and after the day and year first herein written, and shall continue in full force and effect until terminated as herein provided.

15. SUCCESSORS AND ASSIGNS:

Subject to the provisions of Section 13 hereof, this agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

16. RENTAL:

The Licensee shall pay as rental for the term hereof the sum of TEN DOLLARS (\$10.00), payable to the Union Pacific Railroad Company upon the execution and delivery of this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate by their proper officers thereunto duly authorized, as of the day and year first herein written.

Witness:

OREGON SHORT LINE RAILROAD COMPANY,
UNION PACIFIC RAILROAD COMPANY

Alden Lott

By [Signature]
General Manager

Witness:

UTAH CONSTRUCTION & MINING CO.,

[Signature]

By [Signature]
Its

Attest:

[Signature]
Assistant Secretary

C. S. DAVIS
GENERAL VICE PRESIDENT

C. S. DAVIS
GENERAL VICE PRESIDENT

(GM-C)

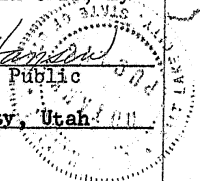
STATE OF UTAH)
County of Salt Lake) ss

On the 1st day of September, 1959,
before me, a Notary Public, personally appeared
G. A. CUNNINGHAM, to me personally known to be the General
Manager of OREGON SHORT LINE RAILROAD COMPANY
and UNION PACIFIC RAILROAD COMPANY, who being duly sworn did
say that the foregoing instrument was signed, sealed and exe-
cuted in behalf of said corporations by authority duly con-
ferred by their Bylaws, and acknowledged to me said instrument
to be the free act and deed of said corporations.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year first in this, my
certificate, written.

My Commission Expires:

Sept. 5, 1960

E. D. Hansen
Notary Public


Residing at Salt Lake City, Utah

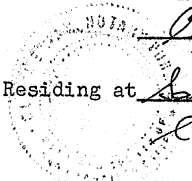
STATE OF California)
City of San Francisco) ss
County of San Francisco

On the 1st day of October, 1959,
before me, a Notary Public, personally appeared
W. S. Jones, to me personally known to be the
Vice President of UTAH CONSTRUCTION & MINING CO.,
who being duly sworn did say that the seal affixed to the fore-
going instrument is the corporate seal of said corporation,
and that said instrument was signed, sealed and executed in
behalf of said corporation by authority duly conferred accord-
ing to law, and acknowledged to me said instrument to be the
free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year first in this, my
certificate, written.

My Commission Expires:

April 17, 1960

Clara E. Hay CLARA E. HAY
Notary Public

Residing at San Francisco
California

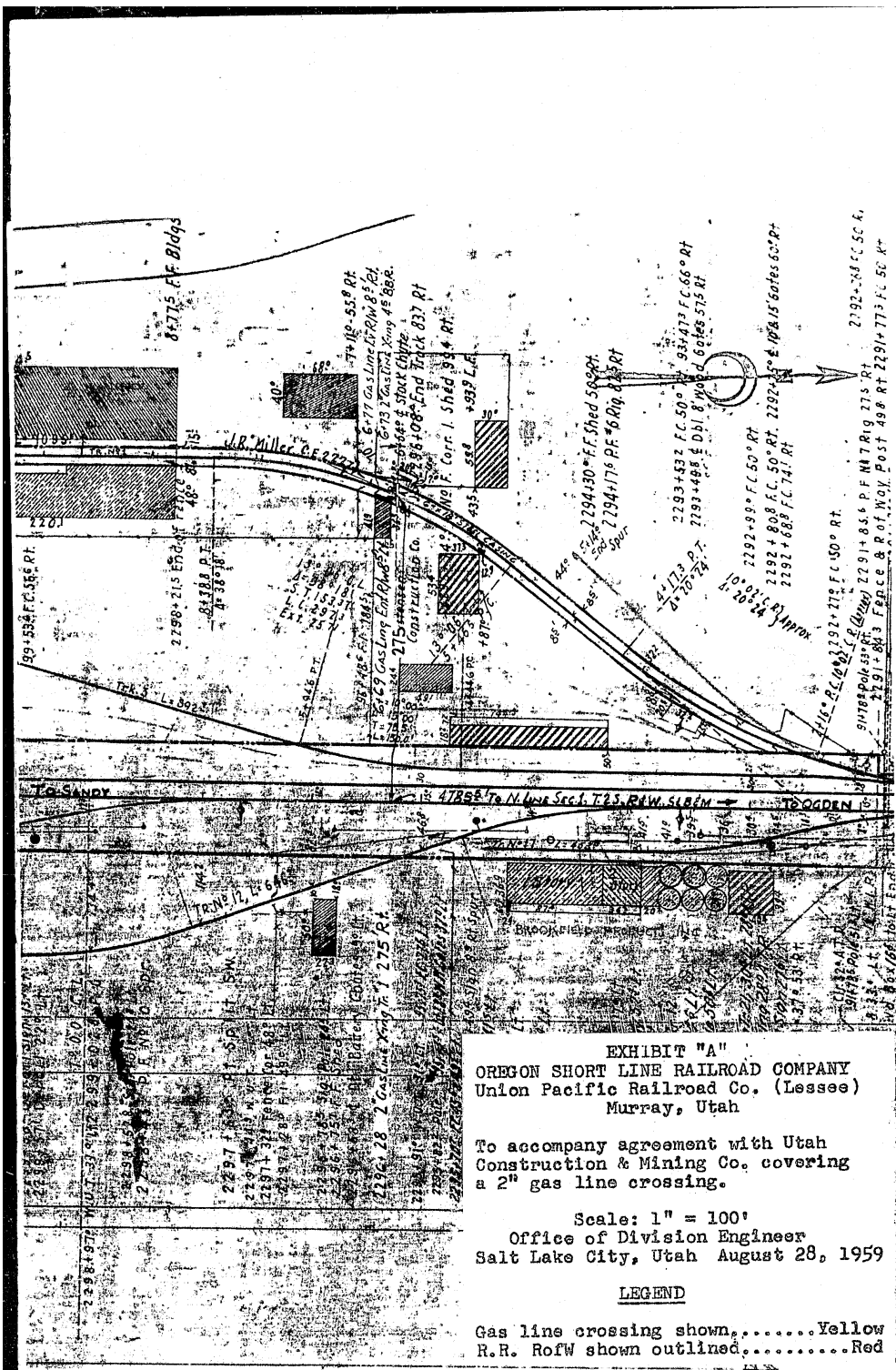


EXHIBIT "A"
 OREGON SHORT LINE RAILROAD COMPANY
 Union Pacific Railroad Co. (Lessee)
 Murray, Utah

To accompany agreement with Utah
 Construction & Mining Co. covering
 a 2" gas line crossing.

Scale: 1" = 100'
 Office of Division Engineer
 Salt Lake City, Utah August 28, 1959

LEGEND

Gas lines crossing shown.....Yellow
 R.R. RofW shown outlined.....Red