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WHEN RECORDED MAIL TO:
Jordan Valley Water Conservancy District
Attn: JT Cracroft
8215 South 1300 West
West Jordan, UT 84088



ENT 2489:2018 PG 1 of 14
JEFFERY SMITH
UTAH COUNTY RECORDER
2018 Jan 08 4:15 pm FEE 0.00 BY VP
RECORDED FOR JORDAN VALLEY WATER

[PARCEL ID # 12-006-0045]

NOTICE OF EASEMENT ENCROACHMENT AGREEMENT

An accurate and complete copy of the original Easement Encroachment Agreement between Delwin E. Jensen and the United States, dated December 12, 2017, is attached to this Notice for property situated in Highland, Utah, described as follows:

6395 West 10400 North, Highland, Utah, also described as: Commencing East along the Section line 30.0 feet and South 33.0 feet from the Northwest corner of Section 2, Township 5 South, Range 1 East Salt Lake Base and Meridian; thence East 134.10 feet; thence South 341.0 feet; thence North 80 deg. 49' West 63.82 feet; thence North 66 deg.02' West 77.8 feet; thence North 299.2 feet to beginning.

Together with:

Commencing East along the Section line 164.1 ft and South 33.0 ft. from the Northwest corner of Section 2, Township 5 South Range 1 East SLB&M; Thence East 124.0 ft; thence South 361.05 ft; thence North 80 deg. 49' West 125.61 ft; thence North 341.0 ft to beginning.

Together with:

Commencing East along the Section line 288.1 ft. and South 33.0 ft from the Northwest corner of Section 2, Twnshp 5 South, Range 1 East, SLB&M

thence East 174.0 ft; thence South 389.18 ft; thence North 80 deg. 49' West
176.26 ft; thence North 361.05 ft. to beginning.

Jordan Valley Water Conservancy District

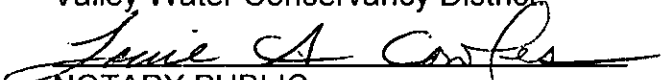
Dated: 1-5-2018

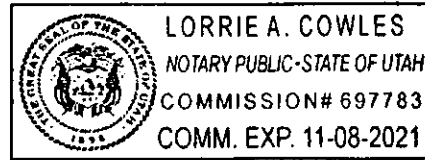
By: 

J.T. Cracroft
Its Property Manager

STATE OF UTAH)
 :ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 5th day of
January, 2018, by J.T. Cracroft as Property Manager on behalf of the Jordan
Valley Water Conservancy District.


NOTARY PUBLIC
Residing in: West Jordan
Commission expires: 11/8/2021



Contract No.16-LM-41-0830
Parcel Identification No. 12:006:0045

Scanned on: _____
as 1576
Reference Number:
17-RAL-52

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
CENTRAL UTAH PROJECT
JORDAN AQUEDUCT, REACH 4
AND
ALPINE AQUEDUCT, REACH 3
(AQUEDUCTS)

EASEMENT ENCROACHMENT AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA
AND
DELWIN E. JENSEN
6395 WEST 10400 NORTH
HIGHLAND, UT

This Easement Encroachment Agreement made this 12 day of December, 2017 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, among the UNITED STATES OF AMERICA and its assigns, hereinafter referred to as the United States, and DELWIN E. JENSEN, hereinafter referred to as the Landowner.

WITNESSETH THAT:

WHEREAS, the United States is the Grantee of that certain easement granted by Delwin E. and Margie Jensen, which easement is recorded in the official records of Utah County, State of Utah, hereinafter referred to as the Easement; and

WHEREAS, the Landowner plans to utilize its property in such a manner as to encroach upon the Easement in a manner more particularly specified hereinafter; and

WHEREAS, the United States is willing to agree to said encroachment, upon conditions more particularly specified hereinafter;

The parties agree as follows:

1. THE EASEMENT OF THE UNITED STATES. The United States has acquired an Easement that is situated in Utah County, a portion of the acquired Easement encumbers address 6395 West 10400 North in Highland (Lot), and is recorded in Book 12, at Page 6 of the official records of the Utah County Recorder. The Lot is located along the Jordan Aqueduct, Reach 4 between approximate Station 634+95.5 and 637+51.5, and lies in Section 2, Township 5 South, Range 1 East, Salt Lake Base and Meridian as shown in Exhibits B and C attached hereto and by this reference made a part hereof. The encroachments shown in Exhibit D may or may not be permitted.

2. ENCROACHMENTS:

(a) The United States will permit the following items lying within the Jordan Aqueduct, Reach 4, and Alpine Aqueduct, Reach 3, Easement:

- (i) Barbed wire fence (a minimum 8 foot access gate must be provided)
- (ii) Welded metal gate
- (iii) Metal rail fence (a minimum 8 foot access gate must be provided)

(b) The United States together with Jordan Valley Water Conservancy District and the Central Utah Water Conservancy District (collectively, Districts) have determined that the following items are detrimental to the integrity of the Aqueducts situated within the Easement and cannot be allowed:

- (i) Trees
- (ii) Any water main valve

In order to permit any existing fence or retaining wall running perpendicular across the Easement to remain therein, the Landowner must install an access gate a minimum size of 8 feet wide, and the entire gate must be installed within the confines of the Easement. In the situation where a fenced property line runs parallel to the aqueduct and lies within the Easement area, same requirements for the installation of an access gate would also apply. If the Landowner prefers that the gate be locked, the Landowner will make provisions for the Districts to have permanent access to the Easement with district-owed locks, by means of a daisy chain configuration.

With respect to the need to remove the items listed in Article 2 (b), the Landowner will be given 1 year from the execution of this agreement to do so. If soil has been excavated from the easement area for purposes of installing a trampoline or for any other such reason, the landowner will be required to install and properly compact fill dirt so as to bring the grade back to original ground surface.

(c) In accordance with 43 CFR 429.16 Subpart D, any applicant requesting a right-of-use on or across a Reclamation easement must submit an 7-2541 application, and remit a nonrefundable application fee of One Hundred Dollars (\$100) prior to installation of additional fencing/gates and/or other type of encroachment within the Easement. As part of the application, the land owner will provide details regarding the design, location, and construction materials of the proposed improvement, which must be reviewed and approved by the Districts and the United States prior to issuance of permission to proceed.

(d) The United States guidelines for agreeing to encroachment upon the Easement are shown on Exhibit "A", attached hereto and by this reference made a part hereof.

3. COVENANT AGAINST FUTURE ENCROACHMENTS: Landowner covenants and agrees that it shall not place, or allow additional encroachments or material within the Easement. Except as allowed under paragraph 2 (d) above, should any encroachment be placed within the Easement in violation of this covenant, Landowner agrees to remove the same promptly, at Landowner's sole risk, cost and expense. Should either of the Districts or any federal agency be

required to remove said encroachment or material, Landowner agrees to reimburse to the said District or federal agency the full cost and expense of doing so within fifteen (15) days of receipt of a demand for the payment. Should Landowner fail to make timely payment, the unpaid amount shall bear interest thereafter, both before and after judgment, at the rate of eighteen percent (18%) per annum.

4. **AUTHORIZED FEDERAL AGENCY:** The federal agency is the Department of the Interior, Bureau of Reclamation, represented by the officer executing this Agreement, his duly appointed successor, or his duly authorized representative.

5. **PLANS AND SPECIFICATIONS:** The Landowner and its Contractor shall perform all work within the Easement in accordance with the plans, drawings, guidelines, and maps shown in Exhibit B and C, attached hereto and by this reference made a part hereof, and in a manner satisfactory to the United States and Jordan Valley Water Conservancy District, and the Central Utah Water Conservancy District.

6. **SEVERABILITY:** Each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law, but if any provision shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of the use authorization as a whole.

7. **ILLEGAL USE:** Any activity deemed to be illegal on Federal lands will be cause for immediate termination of the use authorization.

8. **TERMINATION OF AGREEMENT:** This Agreement will terminate and all rights of the Landowner hereunder will cease, and the Landowner will quietly deliver to the United States possession of the premises in like condition as when taken, reasonable wear and damage by the elements excepted, after failure of the Landowner to observe any of the conditions of this Agreement, and on the tenth day following service of written notice on the Landowner of termination because of failure to observe such condition.

9. **HOLD HARMLESS:** The Landowner hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Landowner activities under this Agreement.

(a) In consideration of the United States agreeing to encroachment upon the Easement by the Landowner, the Landowner hereby agrees to indemnify and hold the United States and the Districts, their agents, employees, and assigns, harmless from any and all claims whatsoever for personal injuries or damages to property when such injuries or damages directly or indirectly arise out of the existence, construction, maintenance, repair, condition, use or presence of the encroachment upon the Easement, regardless of the cause of said injuries or damages; provided, however, that nothing in this Agreement shall be construed as releasing the United States or the Districts from responsibility for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law, and/or the

liability of the Districts beyond the provisions of the Governmental Immunity Act of Utah, Utah Code Ann §§ 63G-7-101 et seq.

(b) In consideration of the United States agreeing to the Landowner encroaching upon the Easement, the Landowner agrees that the United States shall not be responsible for any damage caused to facilities, equipment, structures, or other property if damaged by reason of encroachment upon the Easement by the Landowner. The Landowner hereby releases the United States and the Districts, their officers, employees, agents, or assigns, from liability for any and all loss or damage of every description or kind whatsoever which may result to the Landowner from the construction, operation, and maintenance of Project works upon said lands; provided that nothing in this Agreement shall be construed as releasing the United States or the Districts from liability for their own negligence. Nothing herein shall be deemed to increase the liability of the United States beyond the provisions of the Federal Tort Claims Act, Act of June 25, 1948, 62 Stat. 989 (28 U.S.C. §1346(b), 2671 et seq.) or other applicable law, and/or the liability of the Districts beyond the provisions of the Governmental Immunity Act of Utah, Utah Code Ann §§ 63G-7-101 et seq.

(c) If the maintenance or repair of any or all structures and facilities of the United States located on the easement area should be made more expensive by reason of the existence of the encroachments upon the Easement, or works of the Landowner or its Contractor, the Landowner and /or its Contractor will promptly pay to the United States or the Districts, their agents or assigns, responsible for operation and maintenance of said structures or facilities, the full amount of such additional expense upon receipt of an itemized bill.

10. OPERATIONS AND MAINTENANCE: If, for any reason the Districts access the Easement on the Landowner's property, whether in an emergency situation or not, and particularly those instances requiring excavation, neither the United States nor the Districts shall be liable for any damage to any encroachment and they shall not have any responsibility to restore, replace, or re-construct a disturbed encroachment. If any encroachment is damaged or destroyed, any repair or replacement shall be at the Landowner's sole expense, and the new, repaired, or replaced encroachment shall require a new encroachment agreement to be executed at the discretion of the United States.

11. PROTECTION OF UNITED STATES INTERESTS: The Landowner shall comply with all applicable laws, ordinances, rules, and regulations enacted or promulgated by any Federal, state, or local governmental body having jurisdiction over the encroachment.

12. UNRESTRICTED ACCESS: The United States reserves the right of its officers, agents, and employees at all times to have unrestricted access and ingress to, passage over, and egress from all of said lands, to make investigations of all kinds, dig test pits and drill test holes, to survey for and construct reclamation and irrigation works and other structures incident to Federal Reclamation Projects, or for any purpose whatsoever. Reclamation will make every reasonable effort to keep damages to a minimum.

13. COVENANT AGAINST CONTINGENT FEES: The Landowner warrants that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agencies maintained by the Lessee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the

right to annul this Agreement without liability or in its discretion to require Landowner to pay the full amount of such commission, percentage, brokerage, or contingent fee.

14. OFFICIALS NOT TO BENEFIT: No member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or accepted by or on behalf of the United States, or to any benefit to arise thereupon.

15. SUCCESSORS IN INTEREST OBLIGATED: The provisions of this Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, personal representatives, successors, and assigns of the parties hereto; provided, however, that no such heir, executor, administrator, personal representative, successor or assign of the Landowner shall have the right to use, alter, or modify the encroachment in a manner which will increase the burden of the encroachment on the Easement.

16. This Agreement makes no finding as to the right, title, or validity of the Landowner or the encroaching interest, but merely defines the conditions under which the encroachment will not be deemed unreasonable by the United States.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

UNITED STATES OF AMERICA

By: Wayne G. Pullan
Wayne G. Pullan
Area Manager

LANDOWNER:
DELWIN E. JENSEN

By: Delwin E. Jensen
Delwin E. Jensen

CONCUR:
JORDAN VALLEY WATER CONSERVANCY DISTRICT

By: Richard A. Bay
Title:

CENTRAL UTAH WATER CONSERVANCY DISTRICT

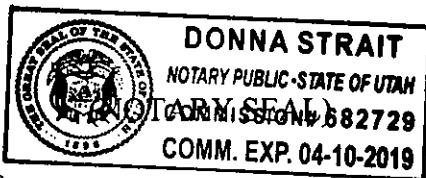
By: [Signature]
Title:
Bonneville O & M Manager

ACKNOWLEDGMENT OF THE UNITED STATES

State of UT)
) ss.
County of UT)

On this 12 day of December, 2017, personally appeared before me Kent Kofford, known to me to be the Deputy Area Manager of the Provo Area Office, Bureau of Reclamation, Upper Colorado Region, United States Department of Interior, the signer of the above instrument, who duly acknowledged to me that he executed the same on behalf of the United States of America pursuant to authority delegated to him.

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



[Handwritten Signature]
Notary Public

ACKNOWLEDGMENT OF DELWIN E. JENSEN

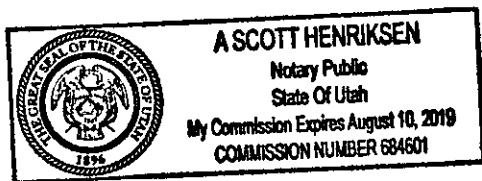
State of UT)
) ss.
County of UT)

On this 25 day of September, 2017, personally appeared before me Delwin E. Jensen known to me to be the Landowner, the signer of the above instrument, who duly acknowledged to me that he/she executed the same on behalf of the Landowner, pursuant to authority delegated to him/her.

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

(NOTARY SEAL)

[Handwritten Signature]
Notary Public



ENCROACHMENT GUIDELINES FOR
(JORDAN AQUEDUCT, REACH 4
&
ALPINE AQUEDUCT, REACH 3

PROTECTION CRITERIA

- A. Surface structures that generally will be allowed to be constructed within United States rights-of-way include asphalt roadways, with no utilities within roadway, non-reinforced parking lots, curbs, gutters and sidewalks, walkways, driveways. However, where United States system pipe has specific maximum and minimum cover designation the special requirements for roadways, parking lots and driveways crossing over the pipe shall be obtained from the United States for the maximum allowable external loading or minimum cover. **HOWEVER, IT IS UNDERSTOOD THAT ALL SURFACE STRUCTURES SHALL BE ANALYZED AND CONSIDERED ON AN INDIVIDUAL BASIS.**
- B. Structures that may not be constructed in, on, or along United States rights-of-way include but are not limited to, permanent structures such as retaining walls, block walls, buildings, garages, decks, carports, mobile homes with permanent foundations, swimming pools, block, cement, fences, or rock fences and walls as designated by the United States.
- C. No trees or vines will be allowed within the rights-of-way of the United States.
- D. All temporary or permanent changes in ground surfaces within United States rights-of-way are to be considered to be encroaching structures and must be handled as such. Earthfills and cuts on adjacent property shall not encroach onto United States rights-of-way without prior approval by the United States.
- E. Existing gravity drainage of the United States rights-of-way must be maintained. No new concentration of surface or subsurface drainage may be directed onto or under the United States rights-of-way without adequate provision for removal of drainage water or adequate protection of the United States rights-of-way.
- F. Prior to construction of any structure that encroaches within United States rights-of-way, an excavation must be made to determine the location of existing United States facilities. The excavation must be made by or in the presence of water users or the United States.
- G. Any contractor or individual constructing improvements in, on, or along United States rights-of-way must limit his construction to the encroaching structure previously approved and construct the improvements strictly in accordance with plans or specifications.
- H. The ground surfaces within United States rights-of-way must be restored to a condition equal to that which existed before the encroachment work began or as shown on the approved plans or specifications.

I. The owner of newly constructed facilities that encroach on United States rights-of-way shall notify the United States and/or the Districts upon completion of construction and shall provide the Districts with one copy and the United States with two copies of as-built drawings showing actual improvements in, on, or along the rights-of-way.

J. Except in case of ordinary maintenance and emergency repairs, an owner of encroaching facilities shall give the Districts at least 10 days notice in writing before entering upon United States rights-of-way for the purpose of reconstructing, repairing, or removing the encroaching structure or performing any work on or in connection with the operation of the encroaching structure.

K. If unusual conditions are proposed for the encroaching structure or unusual field conditions within United States rights-of-way are encountered, the United States reserves the right to impose more stringent criteria than those prescribed herein.

L. All backfill material within United States rights-of-way shall be compacted to 95 percent of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within 6 inches of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed over the project works or within 18 inches horizontally of the projects works.

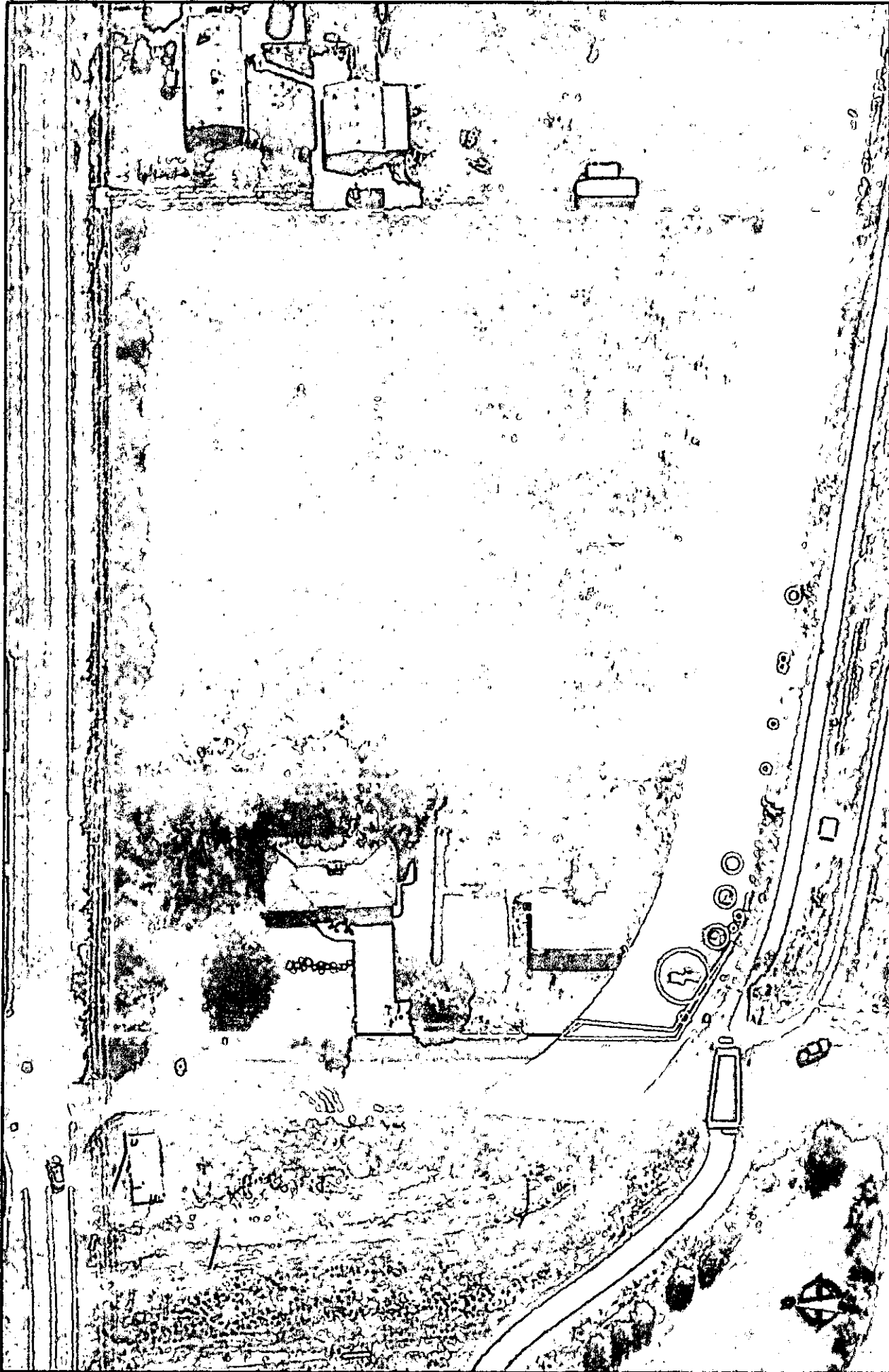
M. That the backfilling of any excavation or around any structure within the United States rights-of-way shall be compacted in layers not exceeding 6 inches thick to the following requirements: (1) cohesive soils to 95 percent maximum density specified by ASTM Part 19, D-698, method A; (2) noncohesive soils to 95 percent relative compaction specified by ASTM D 7382-08.

N. Any nonmetallic encroaching structure below ground level shall be accompanied with a metallic strip within the United States rights-of-way.



O. Owners of encroaching facilities shall notify the United States at (801)379-1000 and/or the Jordan Valley Water Conservancy District at (801)565-4300, and/or Central Utah Water Conservancy District at (801)221-0192 at least forty-eight (48) hours in advance of commencing construction to permit inspection by the United States and/or the Districts.

P. No use of United States lands or rights-of-way shall be permitted that involve the storage of hazardous material.

16-LM-41-0830



6395 W. 10400 N., Highland

 Delwin Jensen
 U.S. Easement JA-452(P) & 449(P)

Metal welded gate, bar-wire fence, tree stumps, pipes, debris, metal rail fence

EXHIBIT B

SECTION 2 • TOWNSHIP 5 SOUTH • RANGE 1 EAST



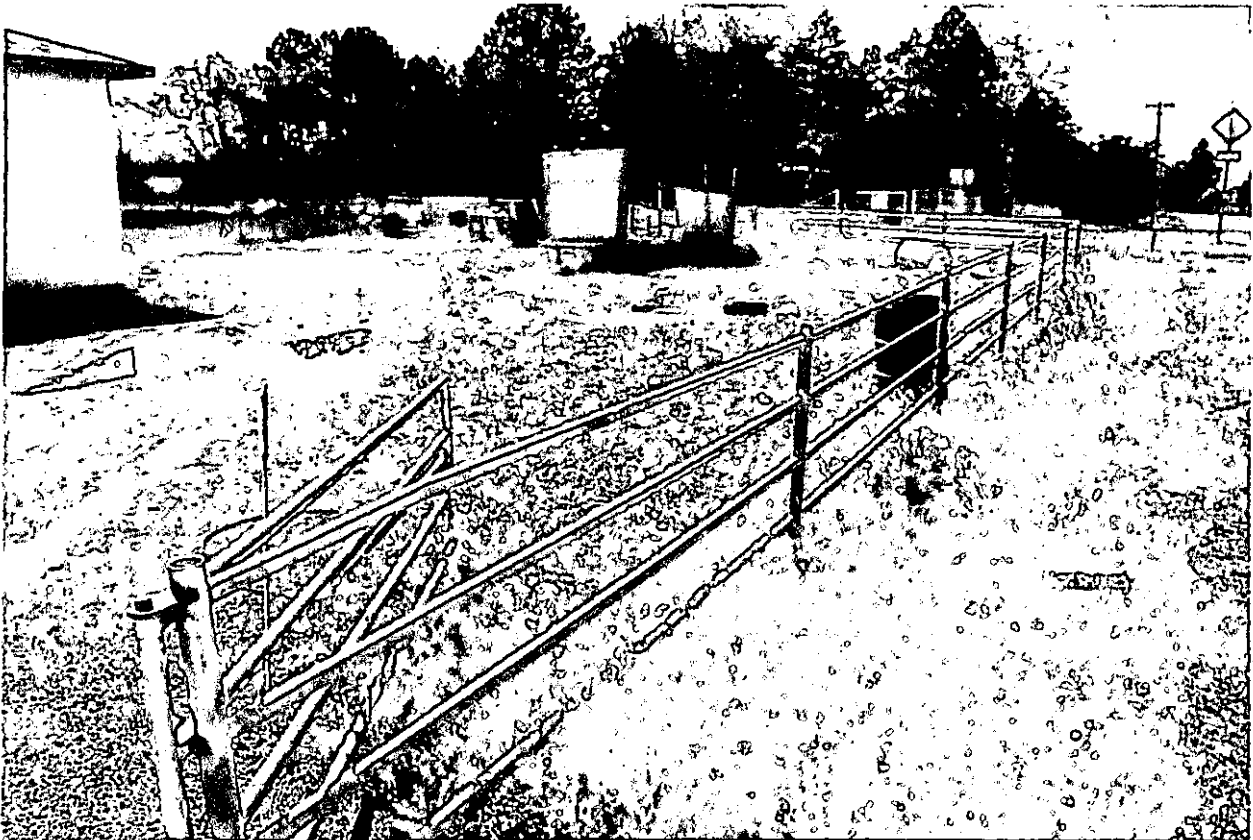
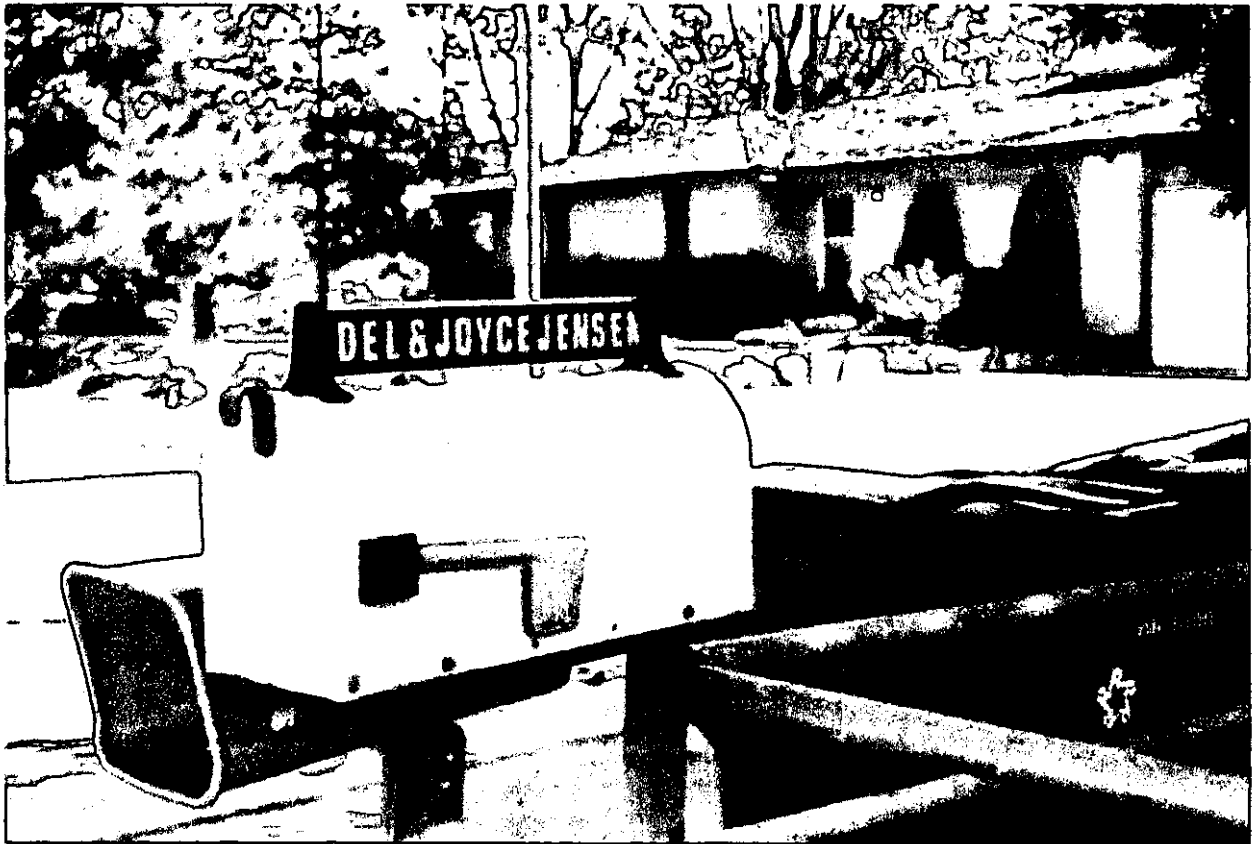


EXHIBIT D

