

RECORD OF PROCEEDINGS

100 LEAVES

MINUTES OF THE MEETING OF THE BOARD OF DIRECTORS OF THE PUEBLO CONSERVANCY DISTRICT

September 20, 1960

A meeting of the Board of Directors of the Pueblo Conservancy District was held at the office of the District, 113 East Fifth Street, Pueblo, Colorado, at 10:00 o'clock A.M., September 20, 1960.

Directors Present: John M. Holmes, W. T. Mathis and L. M. Rhoades
Engineer Present: S. F. Elliot

Due to the absence of the Secretary-Treasurer - a motion was made by Mathis and seconded by Rhoades that Holmes be made the Acting Secretary for this meeting.

The minutes of the meeting of July 20, 1960, were read and approved.

The following Vouchers were read and approved:

13382	Mountain States T&T Co.	17.63
13383	Rufus Stephens	19.40
13384	Charles M. Rose	100.00
13385	Elbert D. Greene	88.10
13386	Director of Internal Revenue	8.40
13387	Barbara Greene	48.50
13388	Simon F. Elliot	150.00
13389	Taylor Fence Company	105.10
13390	Simon F. Elliot	25.00
13391	Southern Colorado Power Co.	1.09
13392	Pueblo Gas and Fuel Co.	2.27
13393	Mountain States T&T Co.	19.54
13394	Rufus Stephens	19.40
13395	Charles M. Rose	100.00
13396	Elbert D. Greene	88.10
13397	Director of Internal Revenue	8.40
13398	Barbara Greene	48.50
13399	Simon F. Elliot	150.00
13400	Herman Klipfel, Postmaster	4.00
13401	Dan J. Kiblosky	176.25
13402	Southern Colorado Power Co.	1.20
13403	Pueblo Gas and Fuel Company	2.39
13404	Simon F. Elliot	55.00
13405	John M. Holmes	10.00
13406	W. T. Mathis	10.00
13407	L. M. Rhoades	10.00
13408	S. F. Elliot	10.00

The annual report of Dan J. Kiblosky, CPA, was read and studied. It was moved by Mathis and seconded by Rhoades that same be accepted and filed.

RESOLUTION

Be It Resolved By The Directors of the Pueblo Conservancy District:

That the attached agreement between the Pueblo Conservancy District and the Certified Concrete Company, be and the same is hereby approved and that John M. Holmes as president of the district is hereby authorized to execute the same, for and in behalf and in the name of the Pueblo Conservancy District.

AGREEMENT

Whereas certain lands of the Pueblo Conservancy District acquired and devoted to channel purposes of the Arkansas River are subject to channel improvements by lowering the level thereof and eliminating consequences of filling by stream action by methods and plans of excavation as directed or approved by the said district, now therefore:

This agreement between the Pueblo Conservancy District, a public corporation, as party of the first part hereinafter called the district, and the Certified Concrete Company, a Colorado corporation, party of the second part hereinafter called the licensee, witnesseth:

1. The district hereby permits the licensee to excavate and remove gravel from the property hereinafter described upon the terms and for the purposes set forth in this instrument.

2. The land area from which gravel may be excavated and removed by licensee is described as follows:

All lands acquired by the district for stream channel and flood protection purposes lying between the Santa Fe Avenue Highway Bridge across the aforesaid new river channel on the west, and the Colorado and Southern Railroad Bridge on the east; and lying and situated south of the northern embankment of the said channel as constructed by the district.

3. Ingress and egress to the above lands over and across other lands of the district shall be allowed in such place, manner and time as the district shall direct.

J. M. A.
E. J. B.

4. Excavation and removal of gravel by the licensee shall be on the general planned system of longitudinal channels which plan and the general execution thereof shall be directed or approved by the district as to place, depth, manner, form and time.

5. No excavation shall be made within 125 feet from the base of any embankment or levee of the district, nor within 100 feet of the sewer lines of the city of Pueblo located on original Locust Street.

6. All overburden removed by the licensee shall be filled into the excavation space prior to the first day of May of each successive year leaving no overburden above the ground surrounding the excavation space; time is the essence of the obligation of this section (6).

7. Stock piling of excavated gravel is hereby permitted between October 15 and April 15 of each successive year. All stock piles shall be removed prior to April 15 of each successive year and so reported; time is the essence of the obligation of this section (7).

8. To insure to the district the advantages of performance by the licensee, the licensee agrees that the purposes above mentioned shall be the main source of gravel supply of the licensee, and that the work of excavation shall be continued expeditiously during the term of this contract, subject to the terms thereof.

9. For all gravel excavated the licensee shall pay to the district the fair market value thereof but

not less than a minimum of 5 cents per ton. In the event of failure of the parties to agree on a price at a fair market value, the determination thereof subject to such minimum shall be left to arbitrators as provided by Rule 109 of the Rules of Civil Procedure (Colo.). Such arbitration proceedings shall not interrupt the progress of the work under this agreement. Payment shall be made by the licensee before the 20th day of each month following date of excavation from ground or removal from stock pile.

10. To insure expeditious excavation the licensee shall pay the district \$3500. per year as a minimum charge for gravel excavated; provided, however, that should the amount due for excavation in any one year computed as in paragraph (9) fall below the minimum \$3500., credit shall be allowed for such deficiency by excavation value in excess of \$3500. in the next succeeding year only. x

11. Reports to the district of gravel removed shall be made daily to the district by the licensee, by mail, on forms furnished by the district designating the information required by the district. Gravel removed shall be so reported, at present, as it is taken from the screening and crushing plant of the licensee; later, when the mixing plant is moved to the vicinity of the screening and crushing plant, gravel removed shall be reported as and when excavated from the ground or removed from stock pile.

12. It is hereby expressly agreed between the district and the licensee that the licensee hereby assumes the obligations of an independent contractor

+ see minutes
of June 28, 1962
for waiver of this
paragraph

JMB
JEB

including the risks and hazards of stream action involving damage to its property or delay to the operations of the licensee; and that the licensee shall hold the district free and harmless from all claims arising from operations of the licensee; and that the licensee shall properly safeguard the public from injuries.

13. In case of public necessity the district may order cessation of the operations of the licensee and the removal of all machinery from the channel within twenty-four hours by the licensee at its own expense; provided, however, that if such cessation of operations be ordered for more than 20 days, adjustment shall be made of the minimum requirements of payment. This section shall apply only to cessation of operations ordered by the district.

14. In the event that owing to flood conditions in the channel which render excavation and removal or other operations of the licensee impracticable, upon application to the district by the licensee setting forth the necessity of cessation of operations and the reasons therefor, the district may permit such cessation by the licensee for such time and under such conditions as to the district shall seem equitable; and the decision of the district shall be conclusive in the premises. The terms of this section shall apply only in the event of such application by the licensee and without respect to cessations ordered under section 13 of this agreement.

15. It is especially understood and agreed between the parties of this agreement that the lands above described are part of a public stream devoted by

law to all channel purposes of the Arkansas River, now or hereafter existing, and that such purposes are paramount and that nothing in this instrument shall be construed as waiving the exercise by the Pueblo Conservancy District of such governmental powers as may be of necessity required to protect and effect such purposes; and no claim shall be made by the licensee arising from the exercise by the district of such powers.

16. The term of this agreement shall be for five years from the date of execution thereof subject however to renegotiation at the expiration thereof.

17. This contract shall not be assignable by the licensee except with the consent and the approval of the district.

18. The officers of the respective corporations, parties to this agreement, hereby aver and affirm that they sign this agreement for and in behalf of their respective corporations and are duly authorized thereunto by a resolution of the board of directors of such respective corporations.

Done this 21st day of Sept. 1960.

THE PUEBLO CONSERVANCY DISTRICT

BY John M. Thomas
President

THE CERTIFIED CONCRETE COMPANY

BY Earl Brubaker
President

LICENSE AGREEMENT

This Agreement made between the Pueblo Conservancy District,
party of the first part and the Certified Concrete Company,
a Colorado Corporation, party of the second part witnesseth:

1. The party of the first part hereby grants to the party
of the second part the use of the following described property
for general plant operation purposes, excluding the gravel exca-
vation and removal, in connection with the work of the party of
the second part under a contract with the party of the first
part dated 2/1st Sept 1960

A certain parcel of land, situated in the NW $\frac{1}{4}$ of the
NE $\frac{1}{4}$ of Section 6, Twp. 20 South, Range 64 West of the
6th Principal Meridian, more particularly described as
follows:

Commencing at a point on the south right-of-way
line of the Missouri Pacific Railroad, whence the
north one-quarter corner of the said Section 6 bears
N.28°-45' E., a distance of 567.0 feet; thence easterly
along said south right-of-way line, a distance of 708.6
feet; thence S.1°-30' E., a distance of 22.7 feet to the
point of beginning of the herein described parcel of land;
thence S.31°-24' W., a distance of 78.48 feet; thence
S.19°-00' W., a distance of 65.0 feet; thence S.21°-36'
W., a distance of 140.0 feet; thence N.73°-36' E., a
distance of 180.0 feet; thence N.1°-30' W., a distance
of 153 feet, more or less, to the point of beginning;
said described parcel of land contains 0.75 acres, more
or less.

2. The term of this contract shall run concurrently with
operations of the party of the second part under that certain
excavation contract between these same parties dated 2/1st
Sept; and any breach, forfeiture or revocation of said
excavation contract shall have the same legal effect as to
this contract.

3. The party of the second part shall pay a rental for the above premises at \$100. per year, payable in advance.

4. The party of the second part shall save free and harmless the party of the first part, from any and all claims arising out of the use hereby granted.

Done this 21st day of Sept, 1960.

THE PUEBLO CONSERVANCY DISTRICT

BY John M. Holmes
President

The Certified Concrete Co.

BY Earl J. Brubaker
President

The contract of Certified Concrete Company was read. The following Resolution was introduced by Mathis, who moved its adoption - same was seconded by Rhoades and was carried.

RESOLUTION

BE IT RESOLVED BY THE DIRECTORS OF THE PUEBLO CONSERVANCY DISTRICT: That John M. Holmes, as President, be and is hereby authorized to sign that certain excavation agreement hereto attached, for and in behalf of the Pueblo Conservancy District; and also that certain license agreement permitting the use of District property for general plant operation purposes, a copy of which is hereto attached.

Said Agreement and License Agreement is attached to and made a part hereof.

Report was made by Engineer Elliot with reference to the construction of a fence by Ambrose Spitzer on Conservancy District property - on the South bank of the river between the Santa Fe highway bridge on the East and the new Freeway on the west.

Holmes then related his conversation with Elbert D. Greene and Barbara Greene and introduced the following Resolution.

RESOLUTION

WHEREAS, Elbert D. Greene, as Secretary-Treasurer, and his wife Barbara F. Greene, as Bookkeeper and Stenographer, have served the Pueblo Conservancy District in that capacity for a period of fifteen consecutive years in a highly efficient and satisfactory manner without vacation or other leave of absence

AND WHEREAS, AT THIS TIME, for reasons of their own, they desire to resign their positions and discontinue their connections with the Pueblo Conservancy District - that their resignations be accepted with sincere regret, effective as of November 1, 1960, and that they be granted vacation with pay starting October 1, 1960, or as shortly thereafter as their affairs are in shape to turn over to others, and ending November 1, 1960, when their resignations become effective.

It was moved by Rhoades and seconded by Mathis that the Resolution be approved and made a part of the minutes of this meeting

It was moved by Mathis and seconded by Rhoades that John M. Holmes be elected to the office of Secretary-Treasurer of the District and to assume the duties as carried forth by the former Secretary-Treasurer, Elbert D. Greene, that he be authorized to hire such other help and at such salary for the carrying on of the office requirements as may become necessary. The Bond to the District covering Greene's activities shall be made applicable to Holmes.

Holmes advised that he had had a meeting with Wheelwright of United Advertisers and had made a trip to the South bank of the river west of Santa Fe Avenue and offered them two sign locations for the sum of \$225.00 annually - one location is West of the Freeway and the other is East of the Freeway.

Holmes was requested to carry on further negotiations with the Denver and Rio Grande Western Railroad Company with reference to a permanent crossing over their tracks between the Pueblo Union Depot and the West Fourth Street highway bridge. Holmes was further instructed to investigate the cost and feasibility of servicing with reinforced concrete the back of the river levee between South Main Street on the East and the end of the concrete retaining wall on the West.

There being no further business, the meeting adjourned.

J. M. Holmes
Acting Secretary for this Meeting only

Read and approved:

J. M. Holmes
W. H. Boardman
E. J. Nathan