

Contract No. 3-07-20-L6135

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

Klamath Project

EASEMENT FOR PARKING AND STAGING AREA
1-G-1 DRAIN

THIS INDENTURE, made this 1st day of April, 1994, in accordance with the Act of Congress approved June 17, 1902, (32 Stat. 388) and acts amendatory thereof and supplementary thereto, all such acts being commonly known and referred to as the Federal Reclamation Laws, by and between the UNITED STATES OF AMERICA, acting by and through its Department of the Interior, Bureau of Reclamation, hereinafter called the "United States," represented by the officer executing this instrument on its behalf, and the AQUA GLASS WEST INC., hereinafter called "Grantee."

RECITALS

The United States has constructed and the Klamath Irrigation District/Klamath County Drainage Service District is operating, as a feature of the Klamath Project, the 1-G-1 Drain in Klamath County, Oregon; and

The Grantee proposes to utilize the right-of-way of the 1-G-1 Drain for a parking and staging area; and

The United States has, at this time, no objection to such use and has determined that the grant of such an easement will not be incompatible with the purpose for which said parcel was acquired and is being administered, nor will the easement interfere with the operation of the 1-G-1 Drain.

EASEMENT

In consideration of the premises and subject to the terms and conditions hereinafter set forth, the parties hereto agree:

1. The United States hereby grants to Grantees, without warranty of title, a nonexclusive right, privilege, and easement to occupy a portion of the 1-G-1 Drain (formerly known as R-D-2 Drain) Right-of-Way for parking and staging located on a portion of United States acquired land shown on Exhibit "A" and described as follows:

8:30 AM
CASH

Checked as to Engineering data
 2/15/28

All that portion of that certain 20-foot wide strip of land lying within the south half (S 1/2) of the southwest quarter (SW 1/4) of Section 15, Township 39 South, Range 9 East, Willamette Meridian, as said strip of land is described in the "R-D-2" Drain of the Quitclaim Deed from the Klamath Development Company to the United States of America recorded July 13, 1909, in Book 26 of Deeds, at page 321 of the Official Records of the County of Klamath, State of Oregon.

2. Upon execution of this instrument Grantee shall pay to the United States a fee of \$1,900 (Nineteen Hundred Dollars), said sum reflects fair market value for the easement area. In addition, the Grantee will reimburse the United States for all administrative costs.
3. Grantee hereby agrees to indemnify and hold harmless the United States, its assigns, agents, and employees, from any loss or damage, and from any liability on account of personal injury, death, property damage, or claims of any nature whatsoever and by whomsoever made arising out of Grantee's activities under this easement.
4. The waiver of a breach of any of the provisions hereof shall not be deemed to be a waiver of a subsequent breach of the same provision or of any other provision hereof.
5. This easement is granted for and limited to the specific purposes set forth in Article 1 hereof, and the issuance of this instrument shall not constitute nor be construed as a surrender of subordination to Grantee of the jurisdiction or supervision of the United States in the land herein described.
6. The terms and provisions of this agreement shall inure to the benefit of and be binding upon the successors and assigns of the Grantee.
7. If Grantee ceases to use the easement for a period of 5 years, such easement shall terminate and the Grantee may be required, at the discretion of the United States, to restore the land to its original condition. Said restoration shall be at the expense of the Grantee.
8. This easement is granted subject to the right of the United States to use said land and to existing rights in favor of the public or third parties for highways, roads, railroads, telegraph, telephone and electrical transmission lines and canals, laterals, ditches, flumes, siphons, and pipelines on, over, and across said land.
9. Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. In the event such items are discovered on the premises, Grantee shall immediately notify the officer executing this easement, and protect the site and the material from further disturbance until said officer gives clearance to proceed.

10. The Grantee's use of said land shall conform to all applicable Federal, State, and local laws and regulations, including those related to safety, pollution control, hazardous materials, and environmental protection.
11. No hazardous or toxic substances, such as fuels, lubricants, paints, pesticides, or other substances designated by law may be stored on this property. If any of these substances must be used, prior written approval of the United States is required. Substances must be transported onto and off the premises in clearly labeled, properly sealed containers and handled safely in compliance with existing laws and regulations to prevent any contamination of the soil, air, or water of the land of the United States.
12. All construction, reconstruction, or maintenance work shall conform to normal acceptable engineering standards, be in accordance with all applicable Federal, State, and local laws, rules, and regulations, and shall be done in such manner as to not interfere with those rights and privileges of the United States, together with the responsibility for any damage to United States facilities and/or loss of use as a result of damages to the facilities.
13. Failure of the Grantee to comply with any of the conditions and requirements of this easement shall warrant termination of the easement.
14. The Grantee warrants that no person or agency has been employed or retained to solicit or secure this conveyance upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial agencies maintained by the Grantee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this conveyance without liability or in its discretion to require Grantee to pay full amount of such commission, percentage, brokerage, or contingent fee to the United States.
15. No member of or delegate to Congress or resident Commissioner shall be admitted to any share or part of this conveyance or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this conveyance if given to a corporation or company for its general benefit.
16. There is reserved from the rights herein granted, the prior rights of the United States acting through the Bureau of Reclamation, Department of the Interior, to construct, operate, and maintain public works now or hereafter authorized by the Congress without liability for severance or other damage to the Grantee's work; provided, however, that if such reserved rights are not identified in at least general terms in this easement and exercised for works authorized by the Congress within 10 years following the date of this easement, they will not be exercised unless the Grantee, or Grantee's successor in interest is notified of the need, and grants an extension or waiver. If no extension or waiver is granted, the Government will compensate, or institute mitigation measures for any resultant damages to works placed on said lands pursuant to the rights herein granted. Compensation shall be in the amount of the cost for reconstruction of grantee's works to accommodate the exercise of the Government's reserved rights. As alternatives to such

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compensation, the United States, at its option and at its own expense, may mitigate the damages by reconstructing the grantee's works to accommodate the Government facilities, or may provide other adequate mitigation measures for any damage to the grantee's property or right. The decision to compensate or mitigate is that of the appropriate Regional Director.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above written.

THE UNITED STATES OF AMERICA

By [Signature]
Project Manager
Klamath Falls, Oregon

NOTED:

KLAMATH IRRIGATION DISTRICT

By [Signature]
Title Manager

KLAMATH COUNTY DRAINAGE SERVICE DISTRICT

By [Signature]
Title Director of Public Works

ACCEPTED:

AQUA GLASS WEST INC.
PO Box 412, Industrial Park
Adamsville TN 38310

By [Signature]
Title V.P. / Gen. Mgr.

7-G-1 (R-D-2) DRAIN

Klamath

Development

Company

N-77°-15'E. 1843.4

EXHIBIT 'A'



IN REPLY
REFER TO:

KO-400
LND-3.00

United States Department of the Interior

BUREAU OF RECLAMATION
Mid-Pacific Region
Klamath Project
6600 Washburn Way
Klamath Falls, Oregon 97603-9365

APR 1 1994



Return:
Steve Simon, Vice President
Aqua Glass West, Inc.
5855 Washburn Way
Klamath Falls, OR 97603

Subject: Easement for Parking and Staging Area - Contract No. 3-07-20-L6135 -
Aqua Glass West, Inc.

Dear Mr. Simon:

Enclosed is an original, as well as two copies, of the subject easement.
Please have the original document recorded at the Klamath County Courthouse.
We would appreciate receiving the recordation data (Book and Page Number)
after completion. We agree that the reference to parking in the easement
includes the paving.

Sincerely,

James K. Bryant
James K. Bryant
Chief, Water and Lands Division

Enclosures

STATE OF OREGON,
County of Klamath ss.

Filed for record at request of:

Aqua Glass West Inc.

on this 5th day of April A.D. 19 94
at 3:06 o'clock P.M. and duly recorded
in Vol. 1194 of Deeds Page 10092

Evelyn Bienn
By *Pauline M. Miskin*
County Clerk Deputy.

Fee, \$35.00

Received
4-4-94