BOX ELDER COUNTY
August 20, 1992

The Board of Planning Commissioners of Box Elder County, Utah, met in regular session in the Commission Chambers of the Box Elder County Courthouse, 01 South Main Street, in Brigham City, Utah, at 7:30 p.m. on August 20, 1992.

The meeting was called to order by Acting Chairman DeVon Breitenbeker, with the following members present, constituting a quorum:

Richard Kimber	Chairman
DeVon Breitenbeker	Member
Deanne Halling	Member
Steve Grover	Member
Jon Thompson	Member
Allen Jensen	Commissioner, Member

Absent:

Denton Beecher	Ex-Officio Member
Marie Korth	Ex-Officio Member
Junior Okada	Member

APPROVAL OF MINUTES:
Acting Chairman Breitenbeker presented the Minutes of July 16, 1992, for approval. Mr. Thompson made a motion to approve the Minutes of July 16, 1992, as prepared. Ms. Halling seconded. None opposed. The motion carried.

AGENDA: (Attachment No. 1)
Darrell Nielsen, Request for Overflow Approval: (Attachment No. 2)
Mr. Breitenbeker presented License Agreement, Contract No. 2-LM-41-01410 to construct, operate, and maintain a concrete waterway over the Ogden-Brigham Canal for the D. N. Land Company. Mr. Grover made a motion that the Planning Commission note the document has been received, that action will be postponed, and that a copy be provided for each member of the Planning Commission for review. Chairman Kimber seconded. None opposed. The motion carried.

Jack B. Parson Companies Submittal: (Attachment No. 3)
Chairman Kimber presented the Jack B. Parson Companies submittal for gravel pit escrow and proof of ownership, to transfer Permit 35 to Parsons. Chairman Kimber stated Parsons has submitted everything that had been requested, and all appears to be in order as far as the documentation is concerned. Mr. Thompson made a motion that the Plan-

ning Commission accept the documents and that the permit be transferred to Jack B. Parson Companies.

With reference to Parsons digging farther south, Ms. Halling asked if there is anything that needs to be considered before this is accepted. Mr. Breitenbeker stated that is a separate issue; this use permit is for a particular area. He said Parsons is only asking for a transfer of the permit. Ms. Halling asked if the land that is being worked is part of or an addition to the original agreement covered by the conditional use permit. Mr. Grover stated the part Parsons has opened is part of the property they have purchased.

Chairman Kimber suggested that Mr. Thompson's motion either be amended or retracted and that this issue be tabled pending further information being received relative to what is happening in the area. He said if everything is in order, the work cannot be stopped. Commissioner Jensen stated he would like to hear from Parsons as to what they are doing in the new pit before any action is taken. Mr. Thompson withdrew his motion. Commissioner Jensen made a motion to table the issue pending further information on the other excavation. Ms. Halling seconded. None opposed. The motion carried.

Ken Millard Payment Approval: (Attachment No. 4)
Mr. Breitenbeker presented a bill from Millard Consultants for updating the Zoning and Subdivision Regulations in Box Elder County. To date the balance due is $1,295.00. Chairman Kimber made a motion that this billing be referred to the County Commission for payment. Mr. Thompson seconded. None opposed. The motion carried.

General Plan Review and Comment:
Letter from Millard Consultants: (Attachment No. 5)
The General Plan was discussed by the Planning Commission. It was concluded this would need to be in effect by the first of September. Mr. Thompson made a motion to recommend to the County Commission that the document be accepted as the modified General Use Plan for Box Elder County. Chairman Kimber seconded. He then stated he felt if the dates discussed were correct, the Planning Commission would be negligent if they did not go ahead and accept the General Plan. He said the purpose was to make the document comply with the new law, and we are neither attorneys nor consultants in this area, so he would concur with the motion. None opposed. The motion carried.

Approval of Amendment to Subdivision:
Fred and Marjorie South Forty Minor Subdivision (Changing size of lots 6 & 7):
Commissioner Jensen pointed out the sizes of lots 6 and 7 are being adjusted to be more equal in size. Mr. Thompson made a motion

to accept the change. Mr. Grover seconded. None opposed. The motion carried.

Mr. Thompson made a motion to adjourn at 8:00 p.m. Mr. Grover seconded. None opposed. The motion carried.

Passed and adopted in regular session this 17th day of September, 1992.

Richard D. Kimber, Chairman

ATTEST:

Marie G. Korth
Recorder/Clerk

AGENDA
BOX ELDER COUNTY PLANNING COMMISSION
MEETING PLACE; COUNTY COMMISSION CHAMBERS
BOX ELDER COUNTY COURTHOUSE
BRIGHAM CITY, UTAH

1. Public agenda for the Box Elder County Planning Commission meeting scheduled for 20 August 1992 at 7:30 P.M.

2. Notice given to the newspaper this 19 day of August, 1992 .

3. Approval of the minutes of 17 Sept. 1992.

4. Scheduled Delegations:

   A. Darrell Nielsen request for overflow approval , Bureau approval submission.

   B. Jack Parson Companies submittal for gravel pit escrow and proof of ownership, final action on permit to transfer Permit 35 to Parson.

   C. Ken Millard bill approval.

   D. General Plan review and comment.

   E. Approval of an Amendment to the Fred and Marjorie South Forty Minor Subd. (changing size of lots 6 & 7.)

   F.

   G.

   H.

   I.

   J.

5. Old Business

   A.

   B.

   C.

   D.

Att. no. 1

United States Department of the Interior

BUREAU OF RECLAMATION
Upper Colorado Region
Provo Projects Office
P.O. Box 51338
Provo, Utah 84605-1338

TAKE PRIDE IN AMERICA

IN REPLY REFER TO:
PPO-455

JUL 31 1992

Mr. Darrell Nielsen
944 East 800 South
Bountiful UT 84010

Subject: License Agreement - Ogden-Brigham Canal - Darrell Nielsen - Ogden River Project, Utah (Outgrant)

Dear Mr. Nielsen:

Enclosed, for your files, is a fully executed duplicate original of a License Agreement, Contract No. 2-LM-41-01410. This agreement is for you to construct, operate, and maintain a concrete waterway over the Ogden-Brigham Canal.

We appreciate your cooperation in bringing this matter to conclusion.

Sincerely,

Bruce C. Barrett
Projects Manager

Enclosure

cc: Mr. Terel H. Grimley
General Manager, Ogden River
Water Users' Association
471 West 2nd Street
Ogden UT 84404

RECEIVED
AUG - 5 1992

Contract No. 2-LM-41-01410

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
OGDEN RIVER PROJECT

LICENSE AGREEMENT
BETWEEN THE
UNITED STATES OF AMERICA
AND
DARRELL NIELSEN

THIS LICENSE AGREEMENT, made this 30th day of July 1992, in pursuance of the Act of Congress of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, particularly the Reclamation Project Act of 1939 (53 Stat. 1187), between the UNITED STATES OF AMERICA, acting by and through the Bureau of Reclamation, Department of the Interior, hereinafter referred to as the "United States," represented by the officer executing this agreement, hereinafter referred to as the "Contracting Officer," and DARRELL NIELSEN hereinafter referred to as the "Licensee."

WITNESSETH THAT:

2. WHEREAS, the Licensee, at its sole cost and expense, proposes to cross the Ogden-Brigham Canal, Ogden River Project, State of Utah, hereinafter called the Project Works and the granting of a license to utilize a portion of the Project Works in a manner and at the location hereinafter described will not be incompatible with Project purposes;

3. NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the United States, to the extent of its interest in the Project Works, hereby grants to the Licensee, upon the terms hereinafter provided, a license for the following purposes and in the location described below:

A. Purpose: To construct, operate and maintain a concrete waterway over the Ogden-Brigham Canal.

B. Period: 50 years from date hereof.

C. Location: (In terms of Project Works Centerline Stationing): Ogden-Brigham Canal Centerline Station 799+82.

D. Location (Legal Description): East Half of Section 26, Township 8 North, Range 2 West, Salt Lake Meridian.

E. Plans, Drawing, or Maps (Attached Hereto and made a Part Hereof): Exhibit "A" - Ogden-Brigham Canal Right-of-Way Map.
Exhibit "B" - Concrete Waterway Location Map.

F. Land Status:

☒ Fee Title or withdrawn
☐ Easement or Reserved Right-of-Way

4. Work satisfactory. The Licensee shall perform all work under this License Agreement in accordance with the plans, drawings, or maps attached hereto and in a manner satisfactory to the United States and the Ogden River Water Users Association of Salt Lake City hereinafter called the Association.

5. RIGHTS RESERVED. This License Agreement and all rights hereunder shall be held by the Licensee at all times subject to the rights of the United States and the Association. Jurisdiction and supervision of the United States over the concerned lands are not surrendered or subordinated by issuance of this License Agreement. The United States reserves the right to issue additional licenses, rights-of-way, or permits for compatible uses of the lands involved in the License Agreement; provided, however, any such license, right-of-way, or permit shall be conditioned on such licensee, grantee, or permittee paying Licensee's expenses to relocate waterway as may be required for such compatible use. There is also reserved the right of the United States, its officers, agents, employees, licensees, and permittees, and the right of the Association, its officers, agents, employees, and assigns, at all proper times and places freely to have ingress to, passage over, and egress from all of said lands for the purpose of exercising, enforcing, and protecting the rights reserved herein.

6. HOLD HARMLESS.

A. The United States and the Association, their officers, agents, employees, and assigns do not assume any liability resulting from the granting of this license or the exercise thereof and licensee agrees to indemnify and hold the United States and the Association, their officers, agents, employees, and assigns harmless for injury or damage to any persons or property that may result from the exercise of any of the privileges herein conferred.

B. The Licensee further agrees that the United States and the Association, its officers, agents, employees, and its assigns, shall not be held liable for any damage to Licensee's improvements or works by reason of the exercise of the rights herein reserved; nor shall anything contained in this paragraph be construed as in any manner limiting other reservations in favor of the United States contained in this License Agreement.

7. RELEASE FROM LIABILITY. The Licensee hereby releases the United States and the Association, 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 Licensee from the construction, operation, and maintenance of Project Works upon said lands, provided that nothing in this License Agreement shall be construed as releasing the United States or the Association, from liability for their own negligence.

8. EXTRAORDINARY MAINTENANCE OR REPAIR COSTS. The Licensee agrees that if the maintenance or repair of any or all project structures and facilities located on such lands should be made more expensive by reason of the existence of improvements or works of the Licensee thereon, Licensee will pay to the United States and/or the Association, their agents or assigns responsible for Project operation and maintenance, the full amount of such additional expense within 30 days of receipt of an itemized bill therefore.

9. LICENSEE TO DEFEND TITLE. The Licensee shall defend the United States and the Association from and against any action which challenges the Licensee's use of Project right-of-way or facilities under this License Agreement, provided the United States or the Association promptly tenders such defense prior to the time an answer is due in the proceedings.

10. INTERFERENCE PROHIBITED. The Licensee shall use, occupy, and maintain said facilities with due care to avoid damage to or obstruction of the Ogden-Brigham Canal or other structures of the United States, or any interference in any way with the operation and maintenance of the same.

11. TERM OF LICENSE - TERMINATION. The United States, at its option, may terminate this License Agreement for nonuse of the licensed lands by the Licensee for a period of two (2) continuous years. In any event this license shall expire by limitation at the end of the period recited in Article 3B. All rights granted to the licensee under this License Agreement are subject to termination upon failure of Licensee to comply with the terms of this License Agreement.

12. REMOVAL OF FACILITIES. The United States, its agents or assigns, will determine if the Licensee's facilities will be removed upon termination. If the United States, its agents or assigns, determines that the facility shall be removed, removal will be made within thirty (30) days after termination, and the site will be restored as nearly as practicable to its original condition. Removal of the facilities and restoration of the site will be at the sole expense of the licensee.

13. ASSIGNMENT OR TRANSFER. This license shall not be assigned or transferred by the Licensee without the prior written consent to the United States and the Association.

14. SUCCESSORS IN INTEREST OBLIGATED. This License Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

15. NO WARRANTY. The United States makes no warranty, expressed or implied, as to the extent or validity of the grant contained herein.

16. COVENANT AGAINST CONTINGENT FEES. The Licensee warrants that no person or selling agency has been employed or retained to solicit or secure this License Agreement 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 Licensee for the purpose of securing business. For breach or violation of this warranty, the United States shall have the right to annul this License Agreement without liability or in its discretion to require the Licensee to pay, in addition to the License Agreement consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

17. OFFICIALS NOT TO BENEFIT. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this License Agreement or to any benefit that may arise herefrom, but this restriction shall not be construed to extend to this License Agreement if made with a corporation or company for its general benefit.

18. ENVIRONMENTAL COMPLIANCE. The Licensee agrees to abide by all applicable Federal, State, and local laws and regulations pertaining to pollution control and environmental protection.

19. LANDSCAPE PRESERVATION AND NATURAL BEAUTY.

A. The Licensee shall exercise care to preserve the natural landscape and shall conduct its construction operations so as to prevent any unnecessary destruction, scarring, or defacing of the natural surroundings in the vicinity of the work. Except where clearing is required for permanent works, all trees, native shrubbery, and vegetation shall be preserved and shall be protected from damage which may be caused by the Licensee's construction operations and equipment. Movement of crews and equipment within the rights-of-way and over routes provided for access to the work shall be performed in a manner to prevent damage to grazing land, crops, or property.

B. Upon completion of the work, the construction site shall be smoothed and graded in a manner to conform to the natural topography of the landscape and shall be repaired, replanted, reseeded, or otherwise corrected as directed by the Contracting Officer at the Licensee's expense.

20. SPECIAL PROVISIONS. The Special Provisions, attached hereto, are hereby made a part of this License Agreement the same as if they had been expressly set forth herein.

See Exhibit "C" for Protection Criteria.

Note:

At the present time high volume stormwater (124 ft_3/s), from Cook Canyon passes over the Ogden-Brigham Canal causing erosion of the access road and pipe cover. It is proposed to develop a debris basin, as part of the gravel pit operation, on the upstream side of the Ogden-Brigham Canal. The overflow from the basin would then pass over the buried 48-inch reinforced concrete pipe, in the proposed "Flood Flow Structure," and proceed downstream to the existing debris/detention basin located approximately 1,000 feet below the canal. The overflow structure is designed to accommodate the passage of maintenance vehicles and thus the hydraulic capacity is much greater than the design flood flow.

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

UNITED STATES OF AMERICA

Bruce C Barnett

Projects Manager
Provo Projects Office
Upper Colorado Region
Bureau of Reclamation

APPROVED:

OGDEN RIVER WATER USERS ASSOCIATION

James N Randall

Title PRESIDENT

ATTEST:

By: Lee Ann M. Fuller

Title SEC-TRES

LICENSEE

DARRELL NIELSEN

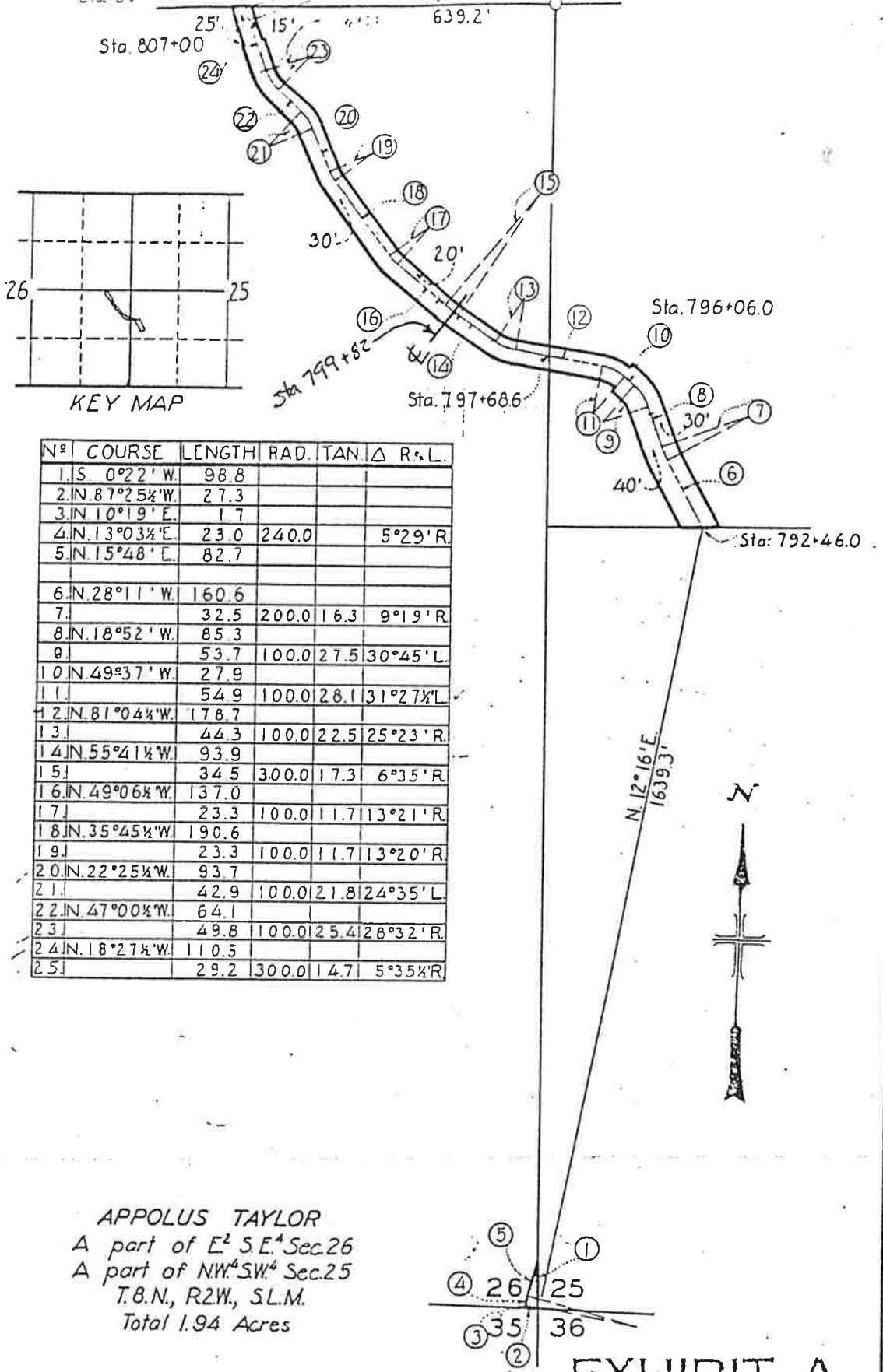
Darrell Nielsen

Title

ATTEST:

By: Norma J Finch

Title



Nº	COURSE	LENGTH	RAD.	TAN.	Δ R.L.
1.	S. 0°22' W.	98.8			
2.	N. 87°25½' W.	27.3			
3.	N. 10°19' E.	1.7			
4.	N. 13°03½' E.	23.0	240.0		5°29' R.
5.	N. 15°48' E.	82.7			
6.	N. 28°11' W.	160.6			
7.		32.5	200.0	16.3	9°19' R.
8.	N. 18°52' W.	85.3			
9.		53.7	100.0	27.5	30°45' L.
10.	N. 49°37' W.	27.9			
11.		54.9	100.0	28.1	31°27½' L.
12.	N. 81°04½' W.	178.7			
13.		44.3	100.0	22.5	25°23' R.
14.	N. 55°41½' W.	93.9			
15.		34.5	300.0	17.3	6°35' R.
16.	N. 49°06½' W.	137.0			
17.		23.3	100.0	11.7	13°21' R.
18.	N. 35°45½' W.	190.6			
19.		23.3	100.0	11.7	13°20' R.
20.	N. 22°25½' W.	93.7			
21.		42.9	100.0	21.8	24°35' L.
22.	N. 47°00½' W.	64.1			
23.		49.8	100.0	25.4	28°32' R.
24.	N. 18°27½' W.	110.5			
25.		29.2	300.0	14.7	5°35½' R.

APPOLUS TAYLOR
A part of E^2 $S.E.^4$ Sec. 26
A part of $N.W.^4$ $S.W.^4$ Sec. 25
T.8.N., R.2.W., S.L.M.
Total 1.94 Acres

EXHIBIT A

DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
OGDEN RIVER PROJECT - UTAH
RIGHTS OF WAY
OGDEN BRIGHAM CANAL

DRAWN: C.M.A. SUBMITTED:

EXHIBIT C

PROTECTION CRITERIA

A. Surface structures that generally will be allowed to be constructed within United States rights-of-way include asphalt roadways, parking lots, curbs and gutters and sidewalks, drainage channels, walkways, driveways, patios, tennis courts, overhead power and telephone lines, excepting their supporting poles, fences with gated openings (no masonry block walls), and similar surface and overhead structures. However, where United States system pipe having an "A" cover designation is involved, 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. However, it is understood that all surface structures shall be analyzed and considered on an individual basis.

B. Structures that may <u>not</u> be constructed in, on, or along United States rights-of-way include buildings, garages, carports, trailers, swimming pools, or other permanent structures as designated by the United States.

C. No trees, vines, or deep-rooted plants will be allowed within fifteen (15) feet from each side of United States pipe conveyance systems.

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. Small transverse drainage channels may be unlined; however, major transverse drainage channels must be concrete lined or protected by adequately sized riprap for a distance of at least 20 feet normal to the centerline on each side of the facility or within the right-of-way, whichever is less.

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 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 approved 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 District or Association and/or the United States upon completion of construction and shall provide the District or Association 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 District or Association 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.

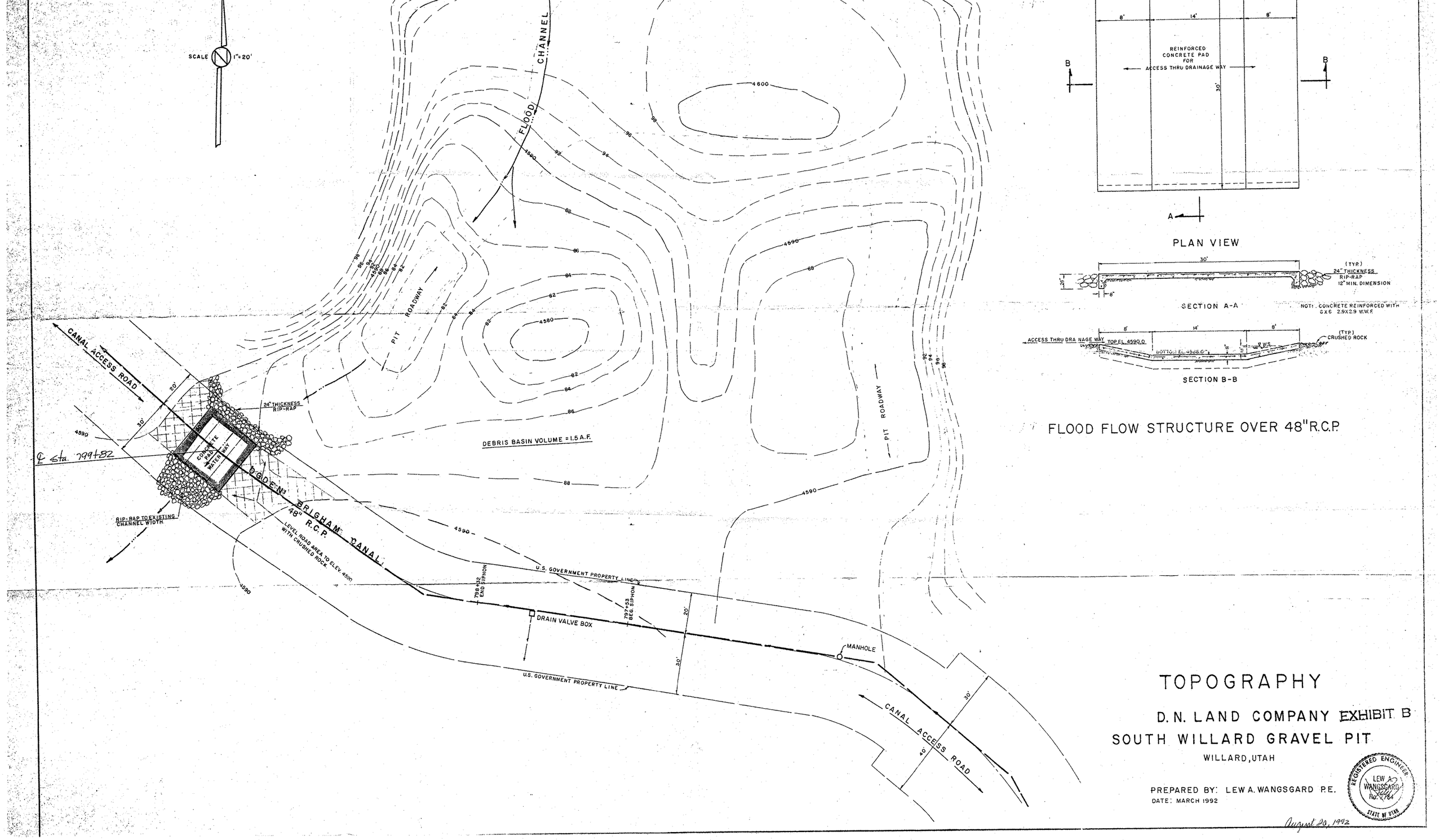
L. All backfill material within United States rights-of-way shall be compacted to 90 percent of maximum density unless otherwise shown. Mechanical compaction shall not be allowed within 6 inches of the projects works whenever possible. In no case will mechanical compaction using heavy equipment be allowed 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 90 percent maximum density specified by ASTM Part 19, D-698, method A; (2) noncohesive soils to 70 percent relative density specified by ANSI/ASTM Part 19, d-2049, par. 7.1.2, wet method.

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 and the District or Association at least forty-eight (48) hours in advance of commencing construction to permit inspection by the United States and/or the District or Association.

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



TOPOGRAPHY

D. N. LAND COMPANY EXHIBIT B

SOUTH WILLARD GRAVEL PIT

WILLARD, UTAH

PREPARED BY: LEW A. WANGSGARD P.E.

DATE: MARCH 1992

REGISTERED ENGINEER LEW A. WANGSGARD No. 2764 STATE OF UTAH

August 20, 1992