

ORD

2005-0047

**INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT
(DEPARTMENT OF WATERWORKS)**

ORDINANCE NO. 05-3-3

An ordinance to approve and authorize the execution of a License with the Secretary of the Army for two waterlines in the Bonnet Carre' Spillway. (License No. DACW29-3-04-90)

WHEREAS, the Parish currently has a license for two two-inch waterlines in the Bonnet Carre' Spillway, License No. DACW29-3-98-01, which is expired; and,

WHEREAS, the U. S. Army Corps of Engineers has prepared a renewal of said License and it is the desire of the Parish to approve said extension.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the Department of the Army License, Bonnet Carre' Spillway Project, Tracts Nos. 121 and 122A, Sections 6 and 21, Township 12 South, Range 8 East, St. Charles Parish, Louisiana No. DACW29-3-04-90 is hereby approved.

SECTION II. That the Parish President is hereby authorized to execute said License on behalf of the St. Charles Parish Department of Waterworks.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

- YEAS: MARINO, FAUCHEUX, HILAIRE, FABRE, RAMCHANDRAN, WALLS, BLACK, DUHE, MINNICH
- NAYS: NONE
- ABSENT: NONE

And the ordinance was declared adopted this 21st day of March, 2005, to become effective five (5) days after publication in the Official Journal.

License two waterlines in Spillway

CHAIRMAN: [Signature]
 SECRETARY: [Signature]
 DLVD/PARISH PRESIDENT: March 22, 2005
 APPROVED: [Signature] DISAPPROVED: _____

PARISH PRESIDENT: Albert D. Laque
 RETD/SECRETARY: March 22, 2005
 AT: 3:03 p.m RECD BY: BJS

DEPARTMENT OF THE ARMY LICENSE
BONNET CARRE SPILLWAY PROJECT
TRACTS NOS. 121 AND 122A, SECTIONS 6 AND 21, TOWNSHIP 12 SOUTH, RANGE 8 EAST
ST. CHARLES PARISH, LOUISIANA

THE SECRETARY OF THE ARMY, hereinafter referred to as the Secretary, acting under his general administrative powers, hereby grants to **ST. CHARLES PARISH DEPARTMENT OF WATERWORKS, LULING, LOUISIANA 70070**, hereinafter referred to as the grantee, a license for **two (2) 2-inch waterlines**, utilizing approximately 0.31 acres over, across, in and upon lands of the United States, as identified in **Exhibit A**, attached hereto and made a part hereof, hereinafter referred to as the premises.

THIS LICENSE is granted subject to the following conditions:

1. TERM

This license is granted for a term of **five (5) years**, beginning **17 May 2003**, and ending **16 May 2008**, but revocable at will by the Secretary.

2. CONSIDERATION

The consideration for this license shall be the construction, operation and maintenance of the premises for the benefit of the general public in accordance with the terms and conditions hereinafter set forth.

3. NOTICES

All notices and correspondence to be given pursuant to this license shall be addressed, if to the grantee, to **St. Charles Parish Department of Waterworks, P.O. Box 108, Luling, Louisiana 70070**; and if to the United States, to the **District Engineer, Attention: Chief, Real Estate Division, U.S. Army Corps of Engineers, P.O. Box 60267, New Orleans, Louisiana 70160-0267**; or as from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", "Installation Commander", or "said officer" shall include their duly authorized representatives. Any reference to "grantee" shall include any duly authorized representatives.

5. SUPERVISION BY THE DISTRICT ENGINEER

The use and occupation of the premises shall be subject to the general supervision and approval of the District Engineer, New Orleans District, hereinafter referred to as said officer, and to such rules and regulations as may be prescribed from time to time by said officer.

6. APPLICABLE LAWS AND REGULATIONS

The grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

7. CONDITIONAL USE BY GRANTEE

The exercise of the privileges herein granted shall be:

- a. without cost or expense to the United States;
- b. subject to the right of the United States to improve, use or maintain the premises;
- c. subject to other outgrants of the United States on the premises;
- d. personal to the grantee, and this license, or any interest herein, may not be transferred or assigned.

8. CONDITION OF PREMISES

The grantee acknowledges that it has inspected the premises, knows its condition, and understands that the same is granted without any representations or warranties whatsoever and without any obligation on the part of the United States.

9. COST OF UTILITIES

The grantee shall pay the cost, as determined by the officer having immediate supervision over the premises, of producing and/or supplying any utilities and other services furnished by the Government or through Government-owned facilities for the use of the grantee, including the grantee's proportionate share of the cost of operation and maintenance of the Government-owned facilities by which such utilities or services are produced or supplied. The Government shall be under no obligation to furnish utilities or services. Payments shall be made in the manner prescribed by the officer having such jurisdiction.

10. PROTECTION OF PROPERTY

The grantee shall keep the premises in good order and in a clean, safe condition by and at the expense of the grantee. The grantee shall be responsible for any damage that may be caused to property of the United States by the activities of the grantee under this license, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all other causes. Any property of the United States damaged or destroyed by the grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the grantee in an amount necessary to restore the property to a condition satisfactory to said officer.

11. INDEMNITY

The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the grantee, or for damages to the property or injuries to the person of the grantee's officers, agents, or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the grantee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

12. RESTORATION

On or before the expiration of this license or its termination by the grantee, the grantee shall vacate the premises, remove the property of the grantee, and restore the premises to a condition satisfactory to said officer. If, however, this license is revoked, the grantee shall vacate the premises, remove said property and restore the premises to the aforesaid condition within such time as the District Engineer may designate. In either event, if the grantee shall fail or neglect to remove said property and restore the premises, then, at the option of said officer, the property shall either become the property of the United States without compensation therefor, or said officer may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account of such removal and restoration work. The grantee shall also pay the United States on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this license in restoring the premises.

13. NON-DISCRIMINATION

The grantee shall not discriminate against any person or persons or exclude them from participation in the grantee's operations, programs or activities because of race, color, religion, sex, age, handicap or national origin in the conduct of operations on the premises. The grantee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

14. TERMINATION

This license may be terminated by the grantee at any time by giving the District Engineer at least ten (10) days notice in writing provided that no refund by the United States of any consideration previously paid shall be made and provided further, that in the event said notice is not given at least ten (10) days prior to the rental due date, the grantee shall be required to pay the consideration for the period shown in the Condition on CONSIDERATION.

15. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties to this license shall protect the premises against pollution of its air, ground and water. The grantee shall comply with any laws, regulations, conditions, or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is specifically prohibited. Such regulations, conditions, or instructions in effect or prescribed by said Environmental Protection Agency, or any Federal, state, interstate or local governmental agency are hereby made a condition of this license. The grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from the grantee's activities, the grantee shall be liable to restore the damaged resources.

c. The grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

16. HISTORIC PRESERVATION


The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

17. DISCLAIMER

This license is effective only insofar as the rights of the United States in the premises are concerned; and the grantee shall obtain any permit or license which may be required by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this license does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (33 U.S.C. § 403), and Section 404 of the Clean Waters Act (33 U.S.C. § 1344).

THIS LICENSE is not subject to Title 10, United States Code, Section 2662, as amended.

IN WITNESS WHEREOF I have hereunto set my hand by authority/direction of the Secretary of the Army this 12th day of April, 2005.

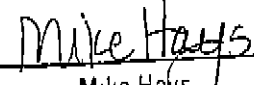


LINDA C. LABURE
Acting Chief, Real Estate Division
U.S. Army Corps of Engineers
New Orleans District

WITNESSES:

Signed: Sheila B. Mills
Printed name: Sheila B. Mills

Signed: Linda L. Bongiovanni
Printed name: LINDA L. BONGIOVANNI

APPROVED AS TO LEGAL SUFFICIENCY:


Mike Hays
ATTORNEY ADVISOR
U.S. Army Engineer District
New Orleans

THIS LICENSE is also executed by the grantee this 29th day of March, 2005.

**ST. CHARLES PARISH
DEPARTMENT OF WATERWORKS**

By:

Signed: Albert D. Laque

Printed Name: Albert D. Laque

Title: Parish President

WITNESSES:

Signed: Valarie Berthelot

Printed name: Valarie Berthelot

Signed: Sandra Miguez

Printed name: Sandra Miguez

CERTIFICATE OF AUTHORITY

I, Albert D. Laque, do hereby certify that I am the principle legal officer of the **ST. CHARLES PARISH DEPARTMENT OF WATERWORKS (PARISH)**, that the **Parish** is a legally constituted public body with full authority and legal capability to adhere and comply with the terms and conditions for License No. DACW29-3-04-90, and subsequent amendments thereto, for the waterlines, in connection with the Bonnet Carre Spillway Project, and that the persons who executed License No. DACW29-3-04-90 on behalf of the **Parish** has acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification on this 29th day of March, 2005.

Signed: Albert D. Laque

Printed name: Albert D. Laque

Title: Parish President

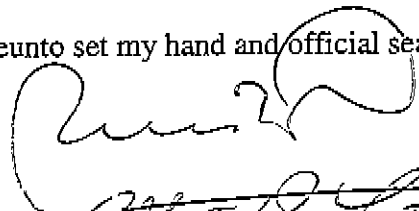
ACKNOWLEDGMENT

STATE OF LOUISIANA

COUNTY/PARISH OF ST CHARLES

On this 29 day of March, 2005, before me appeared Albert D. Lagve, to me personally known, who, being by me duly sworn, did say that he is the Parish President of the **ST. CHARLES PARISH DEPARTMENT OF WATERWORKS (PARISH)**, and that the license was signed in behalf of the **Parish**, by authority duly and legally granted and bestowed upon him, and that the **Parish** acknowledged the license to be the free act and deed of the **Parish** and the **Parish** has no seal.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Signed: Albert D. Lagve

Printed Name: Robert L Raymond

Notary Public

State of Louisiana

Parish of St Charles

My Commission Expires: at my death

Bar Association Number: 11908

ACKNOWLEDGEMENT OF WITNESS FOR LICENSE NO. DACW29-3-04-90

BEFORE ME, the undersigned authority, this day personally came and appeared the undersigned person, duly sworn, who did depose and state that he/she executed the foregoing license agreement as subscribing witness thereto, and that the license agreement was signed and executed by LINDA C. LABURE, and that he/she knows LINDA C. LABURE to be the identical person who executed the same and saw LINDA C. LABURE sign her name in her capacity as Acting Chief, Real Estate Division, CEMVN, on behalf of the United States, as the voluntary act and deed of the United States, and for the purposes and considerations therein expressed, in his presence and in the presence of the other subscribing witness.

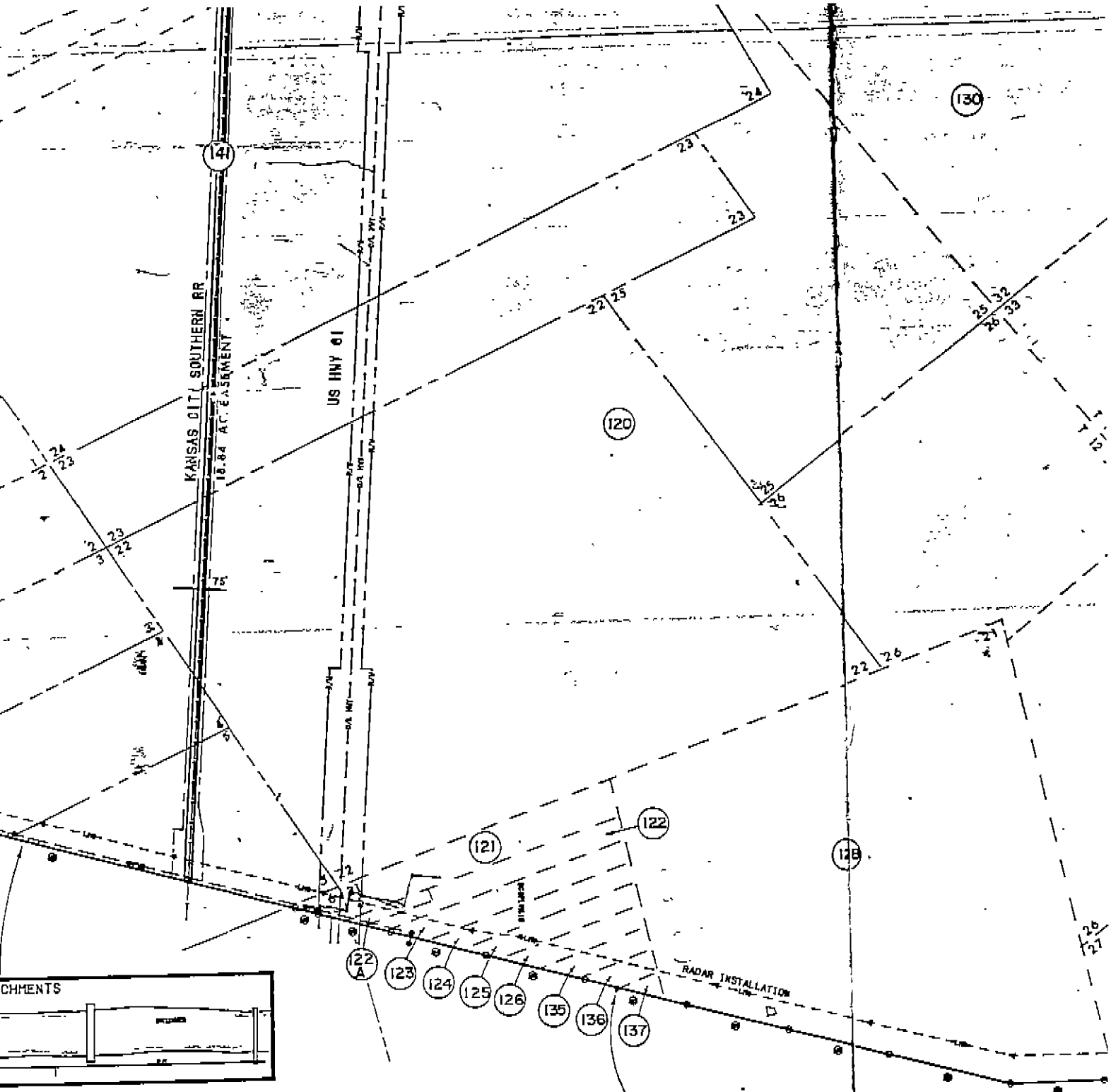
Signed: Sheda B. Mills (Appearer)
Printed Name: Sheda B. Mills

SWORN TO AND SUBSCRIBED BEFORE ME this 13th day of April 2005.

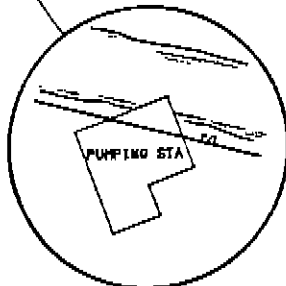
Signed: Cerio D. Marco (Notary)
Printed name: CERIO D. MARCO

Louisiana Bar Association Number: 04948

*State of Louisiana
my Commission is for life*



BONNET CARRE SPILLWAY PROJECT
 TRACTS NOS. 121 & 122A, SECTIONS 6 & 21
 TOWNSHIP 12 SOUTH, RANGE 8 EAST
 ST. CHARLES PARISH, LOUISIANA



INSET OF ENCROACHMENT
 SCALE: 1" = 50'



Exhibit A

