



THE CITY OF

SAN DIEGO

CITY ADMINISTRATION BUILDING • 202 C STREET • SAN DIEGO, CALIF. 92101

OFFICE OF THE
CITY MANAGER
236-6363

April 10, 1986

File: Leases - State of California
Dept. of Parks & Recreation

William S. Briner, Director
Department of Parks and Recreation
State of California
P. O. Box 2390
Sacramento, CA 95811

Dear Mr. Briner:

Re: Right of Entry Permit - City-Owned Land, San Pasqual Valley

Permission is hereby granted to the State of California Department of Parks and Recreation, hereinafter referred to as "Permittee," to enter upon the above-referenced City-owned property, as shown in red on the attached Exhibit "A," upon the following terms and conditions:

1. Permittee's use of the above property shall be limited to drilling, operating and maintaining a water well, and installing the necessary pipelines and related equipment for transporting water from said well to San Pasqual Battlefield State Historic Park. Legal descriptions covering the easements for the well and pipeline are shown on Exhibit B and Exhibit B1 attached. Plans and specifications for the well and water system are shown on Exhibit C attached.
2. This permit shall be in effect immediately upon execution by the City Manager and shall terminate simultaneously with the expiration of the State of California Battle Monument Lease Agreement on July 23, 2033.
3. Permittee shall assume the defense of and indemnify and save the City of San Diego harmless from all claims, expenses, and liabilities of every kind, nature, and description resulting in any manner from the use or condition of said property and any and all operations conducted thereon by Permittee.
4. All risks in connection with Permittee's use of said property and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.

DOCUMENT NO.

PR - 266417
AUG 18 1986

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OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

DUPLICATE ORIGINAL

5. Permittee shall not use the premises in any manner which in the opinion of the City Manager creates a nuisance or disturbs the peace of persons in the surrounding area.
6. This permit is revocable at any time by the City of San Diego. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this permit, and further that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this permit.
7. Permittee recognizes and understands that this permit may create a possessory interest subject to property taxation and that the Permittee may be subject to the payment of property taxes levied on such interest. Permittee further agrees that such tax payment shall not reduce any fee paid the City of San Diego hereunder and that such tax shall be paid by the Permittee before becoming delinquent.
8. Permittee shall at its sole cost and expense comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the above-referenced City-owned property.
9. Permittee shall not assign any rights granted by this permit nor any interest therein. Any assignment by operation of law shall automatically terminate this permit.
10. No signs shall be displayed on the premises without the prior written consent of the City Manager.
11. Maintenance of the premises shall be the sole responsibility of the Permittee during the entire term of this permit.
12. Construction of the facility as hereinabove provided, including screening and landscaping, shall be accomplished to the City Manager's satisfaction at Permittee's sole cost.
13. Grading and compaction operations shall be done in such manner that the existing surface drainage pattern will not be disrupted, and the final grades will not interfere with the existing flow pattern.
14. Maintenance, including irrigation of the premises, shall be the sole responsibility of the Permittee during the entire term of this permit.

15. The well is to be drilled and related items of equipment and pipelines installed in accordance with the plans and specifications shown on Exhibit C. Permittee agrees that regardless of the maximum capacity of the well, the pumping operations will not exceed 80 gallons per minute.
16. The well is to be metered prior to commencing pumping operations and Permittee agrees to pay City a charge of \$59.40 per acre foot for all water pumped from the well. Provided, however, at the end of the first three years of the term of this permit and at the end of each succeeding three-year period thereafter, the City shall adjust the charge for water to reflect changes in the cost of untreated water as determined by the City's Water Utilities Department. The adjustment or new charge for water for each ensuing three-year interval shall be computed as follows:

The charge for each three-year period following the adjustment shall be determined by multiplying the current charge for water being paid by Permittee by the Adjustment Figure. The Adjustment Figure shall be determined by dividing the current cost of water (at the time of the adjustment), as established by the Water Utilities Department, by the Base Figure.

The Base Figure shall be the cost of untreated water immediately prior to the execution of this permit by the City Manager, which is established at \$202 per acre foot.

Example - 1989

Current Cost $\frac{\$302}{\$202}$ = \$1.49 Adjustment Figure

Charge to Permittee $\$59.40 \times \$1.49 = \$88.51$ per Acre Foot

New Charge to Permittee 1989 - 1992 = \$88.51 per Acre Foot

The effective date of the adjustment shall be at the expiration date of each adjustment period. Billing procedures for all water pumped from the well shall be established by the City following the completion of the well and the testing of all equipment and pipelines.

17. Permittee agrees that a reading shall be made by City on March 1 of each year to determine the water level in Observation Well 125-1W-33N1, which is located in the general area of the new well. During the ensuing months, periodic readings of the observation well shall be made on a monthly basis to compare the water level to the March 1 reading and to measure the amount of draw down. In the event the monthly readings indicate that the water level has fallen 30 feet or more below the reading of March 1, the City Manager shall have the right to restrict pumping from the new well

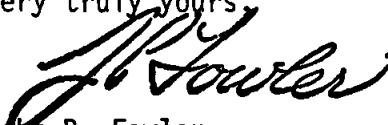
to a specified number of gallons per minute, as determined by City, or require that pumping be discontinued entirely and the well shut down. Notice to restrict or cease pumping operations shall be given in writing and shall remain in effect for a period to be determined by the City Manager. Provided, however, if at any time prior to or after March 1 of each year, the water level in the well falls below 325 feet above mean sea level, the City Manager shall notify Permittee in writing that all pumping operations are to be terminated immediately. In this event, pumping operations shall cease until Permittee is notified in writing by the City Manager that pumping operations may be resumed.

18. Permittee agrees to provide City with "as-built" plans, showing the final location of the well, all pipelines, connectors, gates, valves and related equipment, upon completion of well.
19. Approval for all easements necessary for installing electrical service or pipelines on leaseholds adjacent to the site of the well shall be obtained by Permittee prior to proceeding with any work related to such installations.

Please acknowledge the State of California Department of Parks and Recreation agreement to the foregoing terms and conditions on the enclosed copy of this letter and return it to this office within 10 days from your receipt hereof.

If you should require additional information or have any questions, please call William R. Knowles, Agricultural Lease Manager, at 236-5548.

Very truly yours,


John P. Fowler
Deputy City Manager

JLS:WRK:jw(43-3)

Attachments

cc: County Assessor
Auditor
Financial Management

THE ABOVE IS ACKNOWLEDGED AND ACCEPTED THIS 20 DAY OF May, 1986.

STATE OF CALIFORNIA DEPARTMENT OF
PARKS AND RECREATION

By 

By _____

VERIFIED FOR EXEMPTION


Diana Dugan
EQD Deputy Director

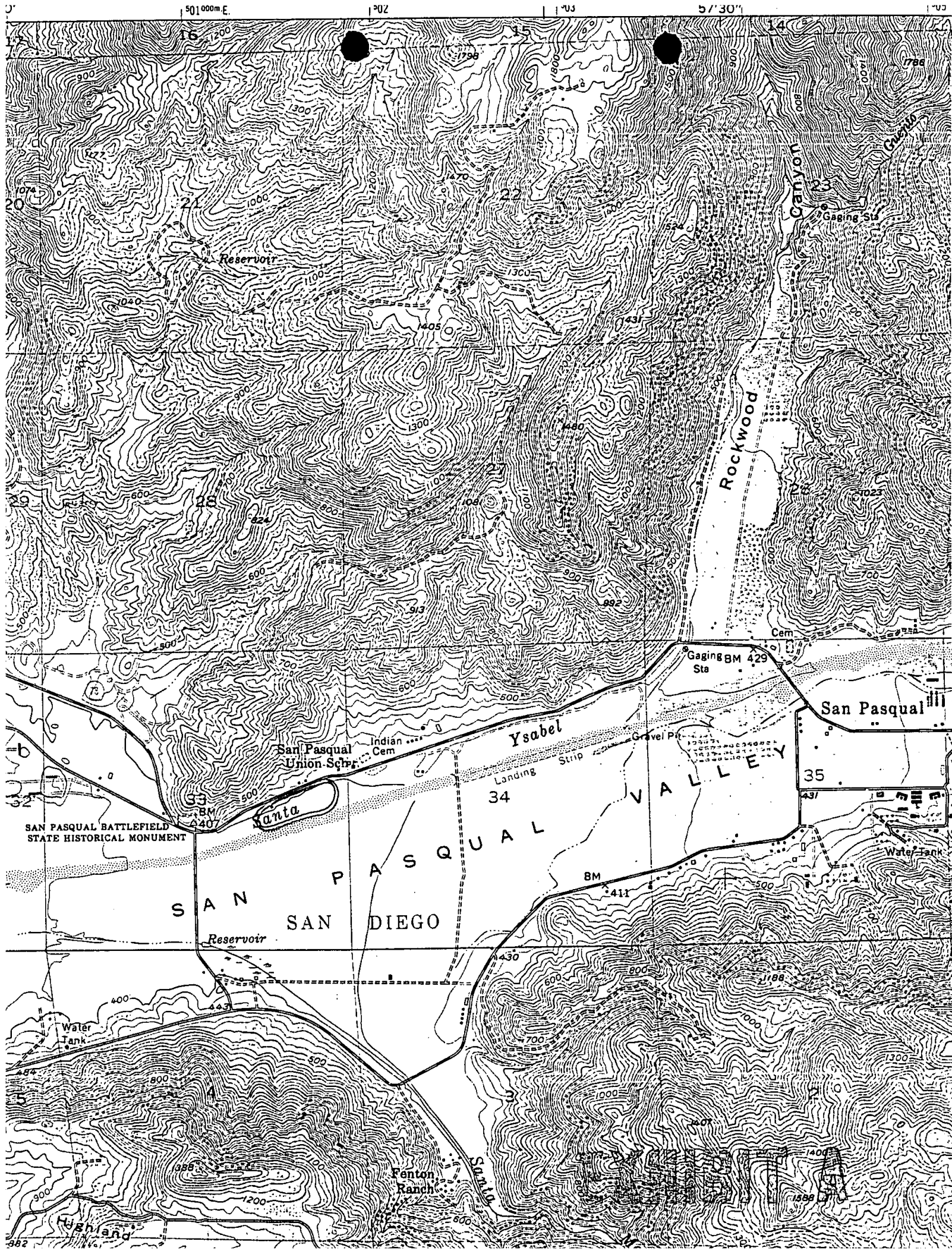
APPROVED AS TO FORM AND LEGALITY BY:

JOHN W. WITT, City Attorney

By 
Deputy City Attorney

DUPLICATE ORIGINAL

R-266417



State of CA
(Battle Monument
Park)

SAN PASQUAL BATTLEFIELD
STATE HISTORIC PARK
PROPOSED
WATER LINE EASEMENTS

Portions of Section 33, Township 12 South, Range 1 West, San Bernardino Meridian, in the County of San Diego, State of California, according to the Official Plat thereof, said portions being more particularly described as follows:

PARCEL ONE

An easement to construct, reconstruct, operate and maintain a water well, together with all fixtures, devices, incidents and appurtenances used or useful in operation of said well, over, through and under the following described parcel:

COMMENCING at the Northwest corner of the lands shown on Record of Survey No. 6690, recorded June 9, 1966 in the Recorders Office of said County, said corner being marked by a 3/4 inch iron pipe with tag RCE 9525;

Thence along the Northerly line of the lands shown on said Record of Survey, North 89°06'01" East 257.29 feet to a 3/4 inch iron pipe with tag RCE 9416;
thence, leaving said Northerly line, South 14°31'09" West 1080.20 feet to the True Point of Beginning of this description;

THENCE North 66°42'18" East 20.00 feet;
thence South 23°17'42" East 40.00 feet;
thence South 66°42'18" West 40.00 feet;
thence North 23°17'42" West 40.00 feet;
thence North 66°42'18" East 20.00 feet to the True Point of Beginning.

PARCEL TWO

An easement to construct, reconstruct, operate and maintain one or more pipelines for the transportation of water, together with all fixtures, devices, incidents and appurtenances used or useful in the operation of said pipeline(s), over, through, under and across a strip of land 10.00 feet in width, being 5.00 feet each side of the following described centerline:

BEGINNING at the True Point of Beginning of the above described PARCEL ONE;

THENCE from said True Point of Beginning North 23°17'42" West 300 feet, more or less, to the Northerly line of California State Highway No. 78, said Highway being identified on said Record of Survey as "relocated Route 15 Div. 1-2", and the end of the herein described centerline.

EXHIBIT B

(R-86-2638)

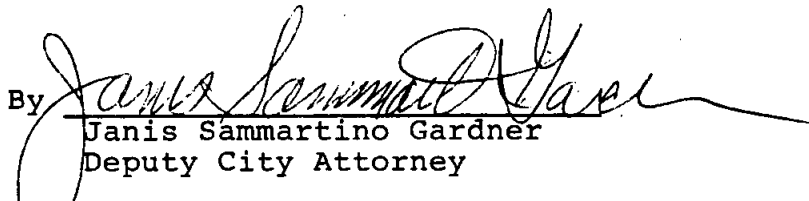
RESOLUTION NUMBER R- **266417**

ADOPTED ON **AUG 18 1986**

BE IT RESOLVED, by the Council of The City of San Diego, that the City Manager is hereby authorized and empowered to execute, for and on behalf of The City of San Diego, a Right of Entry Permit with the STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION, for the purpose of drilling a well on City-owned land in San Pasqual Valley for supplying water to the San Pasqual Battlefield State Historic Park, under the terms and conditions set forth in that Right of Entry Permit on file in the office of the City Clerk as Document No. RR- **266417**.

APPROVED: JOHN W. WITT, City Attorney

By


Janis Sammartino Gardner
Deputy City Attorney

JSG:ps
06/30/86
Or.Dept:Prop.
Job:034765
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